VOTING IN AMERICA: THE POTENTIAL FOR POLL-ING PLACE QUALITY AND RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR ACCESS TO THE BALLOT

HEARING

BEFORE THE SUBCOMMITTEE ON ELECTIONS

COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

JUNE 11, 2021

Printed for the use of the Committee on House Administration

BOOK 1 OF 2



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VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR ACCESS TO THE BALLOT BOOK 1 OF 2

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VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND RESTRIC-TIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR ACCESS TO THE BALLOT

FRIDAY, JUNE 11, 2021

House of Representatives. SUBCOMMITTEE ON ELECTIONS, COMMITTEE ON HOUSE ADMINISTRATION, Washington, DC.

The Subcommittee met, pursuant to call, at 11:00 a.m., via Webex, Hon. G. K. Butterfield [Chair of the Subcommittee] presiding.

Present: Representatives Butterfield, Aguilar, Leger Fernandez, and Steil.

Also Present: Representatives Scanlon and Davis.

Staff Present: Jamie Fleet, Democratic Staff Director; Khalil Abboud, Deputy Democratic Staff Director; Brandon Jacobs, Legislative Clerk; David Tucker, Senior Counsel and Parliamentarian; Dan Taylor, General Counsel; Sean Wright, Senior Elections Counsel; Sarah Nasta, Elections Counsel; Peter Whippy, Communications Director; Natalie Young, Press Secretary; Tim Monahan, Minority Staff Director; Caleb Hays, Minority General Counsel & Deputy Staff Director; Nick Crocker, Minority Deputy Staff Director; Gineen Bresso, Minority Special Counsel; Rachel Collins, Minority Counsel; and Mike Cunnington, Minority Policy Advisor.

Chairman Butterfield. The Subcommittee on Elections of the

Committee on House Administration will now come to order.

It is good to see all of my colleagues this morning. Thank you so very much for joining us. It appears that we have about six members on the call today and just thank all of you for taking the time to log on, and we will try to get through this as quickly as we can.

On the Democratic side, we have, in addition to the chair, we have Mr. Aguilar, Ms. Leger Fernandez, Ms. Scanlon, and, of course, myself. On the Republican side, we have Mr. Davis—I understand that he may be traveling, but he should be with us—Mr. Davis and Mr. Steil.

So thank all of you for joining.

As we begin, I want to very briefly note that we are holding this hearing in compliance with the regulations for remote committee proceedings pursuant to House Resolution 8. Generally we ask our members, our subcommittee members, and witnesses to keep their microphones muted when not speaking. And, of course, the purpose for this is to limit the background noise. Members will need to unmute themselves when seeking recognition or when recognized for their five minutes. Witnesses will also need to unmute themselves when recognized for their five minutes or when answering a question. Members and witnesses, please, please, keep your cameras on at all times even if you need to step away for just a moment. Please do not leave the meeting or turn your camera off. And there are good reasons for that, so please remember that, if you will.

I would also like to remind members that the regulations governing remote proceedings require that we cannot participate in more than one committee proceeding at the same time. Now, I know it is tempting from time to time, but that is the rule. You cannot participate in more than one committee proceeding at the same time.

And so, at this time, I am going to ask unanimous consent that the chair be authorized to declare a recess of the subcommittee at any point and that all members will have five legislative days in which to revise and extend their remarks and have any written statements be made part of the record.

If there are no objections, I will so order it.

Today's hearing is the fourth—it doesn't seem like it has been four, but this is actually the fourth in a series of hearings that this Subcommittee is conducting examining the state of voting in America

Today we will discuss changes in election administration and voting laws that reduce or consolidate or relocate polling locations that impact the ability of voters to access the ballot. We will talk about long wait times at the polls and restrictions on opportunities to vote, all of which—all of which—can disproportionately burden minority voters. We all saw the stories of lines so long, so long voters—let me start that one over. We all saw the stories of lines so long that voters brought chairs to wait for the opportunity to vote, or we saw volunteers providing food and water to people who have to wait in line for hours on end.

That is terrible. No voter should have to wait hours to vote. I

hope we can all have bipartisan agreement on that.

Others still may be forced to travel long distances to reach their polling location. Many do not have the time in their day to do either

And so we have seen the stories of Republican legislatures all across the country who are doubling down on their strategy of making voting inconvenient. Some say they are interested in making it easier to vote and harder to cheat, but what they don't tell us—and what they don't tell you—is they only want you to vote where and when it is convenient for them.

There is no proof that these laws are necessary and no analysis to ensure that they are not discriminatory. Unfortunately, the evidence reveals plainly the very opposite. They are discriminatory and intended to keep voters from the ballot box.

I want to have a debate about that, but that is my opinion.

Expanded opportunities to vote, such as early mail-in or curbside voting and access to drop boxes increase equal access to the ballot and can decrease these waiting times. We should provide more of these opportunities. Recent elections prove that if voters are given options for when and how to cast their ballot, participation in the electoral process will actually increase.

When we increase the opportunities available to voters, it increases participation in our democracy. Our democracy only serves the people when every voter has the ability to freely and fairly participate

The Constitution, that great document that we all serve, the Constitution is unambiguously clear: Congress has a clear role in protecting this right to vote and ensuring equal, equitable access to the franchise.

And so, my friends, I look forward to hearing and learning from today's witnesses and working with my colleagues on both sides of the aisle to ensure we do just that.

Thank you for listening.

I will now recognize the Ranking Member, Mr. Steil, for his opening statement.

[The statement of Chairman Butterfield follows:]

ZOE LOFGREN, CALIFORNIA

JAMIE RASKIN, MARYLAND
G.K. BUTTERFIELD, NORTH CAROLINA
PETE AGUILAR, CALIFORNIA
MARY GAY SCANLON, PENNSYLVANIA
VICE CHAIRPERSON
TERESA LEGER FERNANDEZ. NEW MEXICO

JAMIE FLEET

One Hundred Seventeenth Congress of the United States House of Representatives

COMMITTEE ON HOUSE ADMINISTRATION 1309 LONGWORTH HOUSE OFFICE BUILDING WASHINGTON, DC 20515--9157 202-225-2061 | CHA.HOUSE.GOV RODNEY DAVIS, ILLINOIS RANKING MINORITY MEMBER

BARRY LOUDERMILK, GEORGIA

TIM MONAHAN MINORITY STAFF DIRECTOR

The Honorable G.K. Buterfield Chair, Subcommittee on Elections ng in America: The Potential for Polling Place Qualit

Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot June 11, 2021 Opening Statement

Today's hearing is the fourth in a series of hearings this Subcommittee is conducting examining the state of voting in America.

Today we will discuss changes in election administration and voting laws that reduce, consolidate, or relocate polling locations that impact the ability of voters to access the ballot; long wait times at the polls; and restrictions on opportunities to vote—all of which can disproportionately burden minority voters.

We all saw the stories of lines so long voters brought chairs to wait to vote. Or of volunteers providing food and water to people who have to wait in line for hours on end. No voter should have to wait hours to vote. Others still may be forced to travel long distances to reach their polling location. Many do not have the time in their day to do either.

And we've seen the stories of Republican legislatures across the country doubling down on their strategy of making voting inconvenient. Some say they are interested in making it easier to vote and harder to cheat, but what they don't tell you is that they only want you to vote where and when it is convenient for them.

There is no proof that these laws are necessary and no analysis to ensure that they are not discriminatory. Unfortunately, the evidence reveals plainly the opposite – that they are discriminatory and intended to keep voters from the ballot box.

Expanded opportunities to vote such as early, mail-in, or curbside voting, and access to drop boxes increase equal access to the ballot and can decrease these wait time. We should provide more of these opportunities.

Recent elections proved that, if voters are given options for when and how to east their ballot, participation in our electoral process increases.

When we increase the opportunities available to voters it increases participation in our democracy. Our democracy only serves the people when every voter has the ability to freely and fairly participate.

The Constitution is unambiguously clear. Congress has a clear role in protecting this right to vote and ensuring equal, equitable access to the franchise. I look forward to hearing and learning from today's witnesses and working with my colleagues to ensure we do just that.

Mr. Steil. Thank you very much, Mr. Chairman.

I start out nearly all of our hearings reminding folks that we saw historic turnouts in 2018 and 2020 elections. More people voted in the 2018 midterms than at any midterm election, and more people voted in 2020 than ever before. I say this because for years the rhetoric, which is getting louder, has been that Republicans are trying to suppress the vote. In fact, it has been suggested at each hearing this Subcommittee has held. It is Democrats' justification, I think, for H.R. 1, and the assertion is just not true.

Today's hearing focuses on the effects of poll location closures. And, unfortunately, in 2020, we did see polling location closures. However, it may surprise many of my colleagues that these closures were done in Democratic areas where the elections are administered largely by, wait for it, Democrats. These closures occurred to push mail-in voting without commonsense safeguards.

Let's review eight cities or counties where elections were administered by Democrats or Democratic appointees. In my home State of Wisconsin, the city of Milwaukee reduced polling locations from 180 to just 5 in the 2020 primary election.

In Fulton County, Georgia, which includes the city of Atlanta, and is home to 11 percent of the State's population, they only

opened five polling locations during their primary election.
Harris County, Texas, home to one of the fastest growing cities in the country, Houston, voters reported waiting up to 6 hours to vote in the primary election due to poll closures.

L.A. County closed more than 3,500 voting locations in its primary, reducing the county's poll locations to just 978 for a county whose population is nearly double the entire State of Wisconsin.

In New York City, not only were polling places reduced for the primary election, but some didn't open on time and locations were changed just hours before voters showed up to vote.

Washington, D.C., went from 143 locations to just 20 for its pri-

mary.

Chicago had reports of multiple polling location closures.

Philadelphia County reduced polling locations by 77 percent for their June 2 primary.

And, admittedly, the list goes on.

And so I have to ask my colleagues and the mainstream media who is listening today, where was the outrage from Democrats? Where was the oversight hearings then?

I think Democrats on this Committee failed to hold hearings or conduct proper oversight. Republicans, however, sent letters, oversight letters to each jurisdiction expressing concern and requesting answers. And I would ask unanimous consent to insert those letters and their responses into the record.

Chairman Butterfield. Without objection.

[The information follows:]

Congress of the United States

Washington, DC 20515

December 15, 2020

Keeley Martin Bosler Finance Director California Department of Finance State Capitol Office, Room 1145 Sacramento, CA 95814

Dear Director Bosler:

We are continuing oversight of the highly questionable \$35 million voter contact contract the California Secretary of State's Office awarded to SKD Knickbocker (SKD), Joe Biden's main election campaign advisory firm. Instead of using taxpayer money to enrich political allies of Secretary Alex Padilla with a contract that likely violates the law, we request that you immediately return the federal money to the United States Treasury.

According to the Sacramento Bee, Secretary Padilla has received \$34 million worth of invoices from SKD for the voter contact contract. The no-bid contract was awarded behind closed doors to a firm that employs the "mastermind" of Joe Biden's presidential campaign and recently added a banner to its website with pictures of Joe Biden and Kamala Harris thanking them for "fighting for the soul of the nation." SKD also worked on five California congressional races for Democratic candidates during the 2020 election. Now, Secretary Padilla is reportedly the front-runner to be appointed to California's potentially open United States Senate seat. It is clearly a conflict of interest to provide SKD with millions of dollars in taxpayer money to contact voters while they were not only advising Joe Biden's presidential campaign but also supporting Democrats in congressional races across California.

The Secretary's attempt to pay SKD with federal money appears to be unlawful and an effort to influence the federal election. Documents reviewed by Committee Republicans and provided to the U.S. Election Assistance Commission Office of Inspector General show that the Secretary of State's Office plans to use Help America Vote Act (HAVA) grant money from the CARES Act to fund the contract. According to the U.S. Election Assistance Commission (EAC), HAVA grants cannot be used to get out the vote (GOTV) or to encourage voting. ⁵ Further, the CARES Act is very specific about the use of these funds, which must be used to

Lara Korte, California owes \$34 million on a voter outreach contract it can't pay for, The Sacramento Bee, Dec. 4, 2020, available at https://www.sacbee.com/news/politics-government/capitol-alert/article247538215.html.
2 Id.

⁻ Id.

⁴ Shawn Hubler & Alexander Burns, One Seat, Competing Pressures as Newsom Considers Senate Pick, NY TIMES, Nov 29, 2020, available at https://nytimes.com/2020/11/29/us/California-senate-seat-padilla-newsom.html.
⁵ U.S. Election Ass't Commission, Grants Frequently Asked Questions, available at https://www.eac.gov/payments-and-grants/grants-faqs.

Director Bosler December 15, 2020 Page 2 of 2

"prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle."6

Instead of using federal grant money to benefit all Californians during the COVID-19 pandemic, the Secretary has decided to skirt the law by pushing an unnecessary and frivolous contract for his political allies to influence the federal election. The \$400 million supplemental appropriation funding, distributed by the EAC, was designed to provide states with additional resources to carry out the 2020 election during the pandemic. As it stands, the Secretary's decisions ensured no Californians benefited from this appropriation. We respectively request that you immediately refund federal taxpayers the millions of dollars the Secretary of State's Office is attempting to use from the CARES Act to pay SKD.

The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,

Comer Ranking Member

House Committee on Oversight and Reform

House Committee on the Judiciary

Ranking Member House Committee on

Administration

Ranking Member

Subcommittee on Government

Operations

cc: The Honorable Carolyn B. Maloney, Chairwoman, House Committee on Oversight and Reform

The Honorable Zoe Lofgren, Chairwoman, House Committee on Administration

The Honorable Jerrold Nadler, Chairman, House Committee on the Judiciary

The Honorable Gerry Connolly, Chairman, Subcommittee on Government Operations

⁶ U.S. Election Ass't Commission, Guidance on Use of HAVA Funds for Expenses Related to COVID-19, https://www.eac.gov/election-officials/guidance-use-hava-funds-expenses-related-covid-19.



VIA ELECTRONIC TRANSMISSION

February 26, 2021

The Honorable James Comer, Ranking Member House Committee on Oversight and Reform Rayburn House Office Building, Room 2105 Washington, DC 20515

The Honorable Jody Hice, Ranking Member Subcommittee on Government Operations Rayburn House Office Building, Room 2142 Washington, DC 20515

The Honorable Rodney Davis, Ranking Member House Committee on Administration 1309 Longworth House Office Building Washington DC 20515

Re: Your Letter Dated February 19, 2021

Dear Ranking Member Comer, Ranking Member Hice, and Ranking Member Davis:

This letter responds to your latest communication to my office about your concerns regarding California's use of Help America Vote Act (HAVA) funds. As we acknowledged during our December 17, 2020 meeting, we fully understand the concerns you've expressed in your letters of October 12 and December 3, 2020, and, by extension, your most recent February 19, 2021 letter. I stated during our December meeting, and I still believe, an audit is the most effective and efficient way to address your concerns.

As we agreed at the December meeting, your concerns included California's potential use of a sole source contract to acquire services from a partisan firm, which required the firm to "target" voters and to employ a person with "get out the vote" (GOTV) experience. We read the contract and interpreted portions of it as presenting a risk that the California Office of the Secretary of State (CA-SOS) potentially could have used the contract as noted in your concerns. However, the contract by itself does not prove that the CA-SOS actually incurred ineligible costs. For example,

Find us here: <u>EAC OIG Website</u>
Toll free: 1 - 866-552-0004 | e-mail: eacoig@eac.gov

GOTV experience does not automatically demonstrate that the contractor performed GOTV activities, nor that they would be charged to federal funds; it simply increases the risk that such activities and charges could have occurred. Similarly, a firm's ability and experience in performing partisan activities does not prove that they performed such activities under the CA-SOS contract. Only an examination of detailed records could demonstrate exactly what CA-SOS paid for and what funds were used. An audit can achieve such results as readily as an investigation could.

The action we took in response to your initial letter was to include California in the list of the next group of states to be audited. We read your letter carefully, researched the alleged issues, consulted with EAC, and identified potential risks that led us to our plan to perform the audit of California's expenditures of HAVA funds. An audit is designed to find and analyze facts, obtain documentation to support those facts, test the validity of information obtained, and place the findings and conclusions in context within the objectives and scope of the audit. As soon as we can we will award an audit contract to the firm that represents the best value to the government.

As I explained to you in our December meeting, we have an audit contracting vehicle in place that expedites our ability to initiate one or more new audits. We chose the contractors available under that vehicle, in part, because they each have extensive experience in auditing federal grants. The EAC OIG believes our contractors' knowledge of EAC and experience in auditing grants, including HAVA grant funds, would produce the greatest likelihood of finding any ineligible costs the CASOS may have incurred. If we were to find that California incurred unallowable costs, we would report the relevant amounts as questioned costs and recommend that EAC require California to use state funds to reimburse the election fund California is required to maintain under HAVA. As part of their audit follow-up responsibilities, EAC will ensure that any federal funds or matching state funds used in violation of HAVA or federal grant regulations will be recovered.

One of the primary purposes for performing an investigation versus an audit is to collect evidence, while following well-defined rules of evidence, for referral to the Department of Justice (DOJ) and eventual use in prosecution or litigation. Should our auditors encounter indications of actions that could justify such actions, we could initiate an investigation at any time during the audit, targeted toward a specific potential matter. Depending on the nature and severity of the matter, we could also refer the situation directly to DOJ based solely on the audit findings. Based on the information we have so far, we believe it is unlikely that any audit or investigation would uncover matters related to the subject contract that would require referral to DOJ.

You expressed concerns that California will pay SKD Knickerbocker (SKDK) on the contract if my office does not act quickly. Please be advised that the EAC OIG has no programmatic authority over the EAC's HAVA grants or the operations of its grantees. Thus, my office has no authority and no means to prevent the California SOS office from expending federal funding on their SKDK contract. EAC has the authority and responsibility to manage its grant programs. The Agency followed up with California in response to a nearly identical allegation they received from another source approximately a month before we received your initial letter. If you wish to explore the actions EAC

took with regard to that complaint, the results of the Agency's actions, and any programmatic options available to EAC, if applicable, I would suggest you contact Mona Harrington, EAC Executive Director.

I hope this letter adequately explains our rationale for the course of action we intend to take. Please do not hesitate to contact me if you have any additional questions.

Sincerely,

Struia J. Jayfield
Patricia L. Layfield
Inspector General

cc: The Honorable Carolyn B. Maloney, Chairwoman, House Committee on Oversight and Reform The Honorable Zoe Lofgren, Chairperson, House Committee on Administration The Honorable Gerry Connolly, Chairman, Subcommittee on Government Operations Mr. Steil. So, further, instead of improving voter confidence and addressing these issues, H.R. 1 really would do the opposite. We will hear from today's witnesses about how H.R. 1 would nationalize all elections and centralize their administration in Washington, D.C., under Democratic control, who has a history of closing polling locations and removing key safeguards like voter ID or list maintenance that protect our elections and help ensure that voters are confident in the process and the results.

Last Congress, Republicans introduced legislation to help States ensure polling locations could remain open. The Emergency Assistance for Safe Elections Act, the EASE Act, would have provided additional funding to help States and localities to help poll workers disinfect equipment, for voting machines, purchase personal protec-

tive equipment for poll workers, and other items.

The EASE Act would have also addressed an issue election administrators across the country struggle with, which is recruiting enough poll workers. The typical poll worker is 65 years or older, which is admittedly the designated at-risk population for COVID. Even outside the pandemic, recruiting poll workers has been increasingly difficult for election administrators. The EASE Act would have provided funding to help States clean their voter registration rolls, which impact voter wait times. The more outdated the voter rolls, the longer it takes poll workers to find a voter in the system.

There are, I think, really commonsense solutions that don't involve a Federal Government takeover of our election system. And, unfortunately, we were not able to review the bill in this Committee, and Speaker Pelosi never brought the bill to the floor for a vote. I believe there are election administration solutions Democrats and Republicans can work on together, and I am hopeful that my colleagues on the Committee will take me up on addressing

some of them.

I look forward to today's hearing, Mr. Chairman. And, with that, I yield back.

[The statement of Mr. Steil follows:]

ZOE LOFGREN, CALIFORNIA

JAMIE RASKIN, MARYLAND
G.K. BUTTERFIELD, NORTH CAROLINA
PETE AGUILAR, CALIFORNIA
MARY GAY SCANLON, PENNSYLVANIA
VICE CHAIRPERSON
TERESA LEGER FERNANDEZ, NEW MEXICO

JAMIE FLEET STAFF DIRECTOR

One Hundred Seventeenth Congress of the United States House of Representatives

COMMITTEE ON HOUSE ADMINISTRATION 1309 LONGWORTH HOUSE OFFICE BUILDING WASHINGTON, DC 20515--9157 202-225-2061 | CHA.HOUSE.GOV RODNEY DAVIS, ILLINOIS RANKING MINORITY MEMBER

BARRY LOUDERMILK, GEORGIA

TIM MONAHAN MINORITY STAFF DIRECTOR

The Honorable Brian Steil
Ranking Member, Subcommittee on Elections
Voting in America: The Potential for Polling Place Quality and Restrictions on
Opportunities to Vote to Interfere with Free and Fair Access to the Ballot
June 11, 2021
Opening Statement

I start out nearly all hearings reminding folks that we saw historic turnout in the 2018 and 2020 elections. More people voted in the 2018 midterms than in any other midterm election. More people voted in 2020 than ever before. I say this because, for years, the rhetoric, which is getting louder, has been that Republicans are trying to suppress the vote. In fact, it's been suggested at each hearing this subcommittee has held. It's Democrats' justification for H.R. 1 and for S. 1. This assertion is just not true.

Today's hearing focuses on the effect of polling location closures. Unfortunately, in 2020, we did see polling location closures. However, it might surprise my colleagues that many of these closures were done in Democrat areas where the elections are administered largely by Democrats. These closures likely occurred to push mail-in voting without common-sense safeguards.

Let's review 8 cities or counties where elections were administered by Democrats or Democratic appointees. In my home state, Wisconsin, the City of Milwaukee reduced polling locations from 180 to just *five* for the 2020 primary.

Fulton County, Georgia, which includes the City of Atlanta and is home to 11% of the state's population, only opened five early voting locations during the primary election. In Harris County, Texas, home to one of the fastest growing cities in the country, Houston, voters reported waiting upwards of six hours to vote in the primary election due to poll closures. LA County closed *more than thirty-five hundred* voting locations for its primary, reducing the county's poll locations to just 978 for a county whose population is *nearly double* the entire state of Wisconsin. In New York City, not only were polling places reduced for the primary election, but some didn't open on time and locations were changed just hours before voters showed up to vote. Washington, DC went from 143 polling locations to just 20 for its primary. Chicago had reports of multiple polling location closures. Philadelphia County reduced polling locations by 77 percent for their June 2nd primary. The list goes on!

I ask my colleagues and mainstream media today: Where was the outrage from Democrats? Where were the oversight hearings then?

 $^{^1\}text{ [1] $https://republicans-cha.house.gov/media/press-releases/ranking-member-davis-sends-ten-oversight-electionletters-problematic}$

Democrats on this committee failed to hold hearings or conduct proper oversight. Republicans, however, sent oversight letters to each jurisdiction expressing concerns and requesting answers. I'd ask unanimous consent to insert these letters and their responses into the record.

Further, instead of improving voter confidence and addressing these issues, H.R. 1 would do the opposite. We'll hear more from today's witnesses about how H.R. 1 would nationalize all elections and centralize their administration in D.C., under Democratic control who has a history of closing polling locations, and removing key safeguards, like voter ID and list maintenance, that protect our elections and help to ensure voters are confident in the process and the results.

Last Congress, Republicans introduced legislation to help states ensure polling locations could remain open. The Emergency Assistance for Safe Elections Act, or the EASE Act, would have provided additional funding to help states and localities to help poll workers disinfect equipment for voting machines, purchase personal protective equipment for poll workers, and other items. The EASE Act would have also addressed an issue election administrators across the country struggle with: recruiting enough poll workers. The typical poll worker is 65 or older, which is the designated at-risk population for COVID. Even outside of the pandemic, recruiting poll workers has been increasingly difficult for election administrators.

The EASE Act would have provided funding to help states clean their voter registration rolls, which impact voter wait times. The more outdated the voter rolls, the longer it takes poll workers to find a voter in the system.

These are commonsense solutions that don't involve a federal government takeover of our election system. Unfortunately, we never reviewed this bill in committee and Speaker Pelosi never brought the bill for a vote. I believe there are election administration solutions Democrats and Republicans could work on together, and I'm still hopeful that my colleagues on this committee will take me up on addressing some of them.

With that, I look forward to today's discussion and I yield back.

Chairman BUTTERFIELD. Thank you very much, Mr. Steil. Thank

you, thank you, thank you.

I noticed that the Ranking Member of the Full Committee is on the screen, my good friend, my neighbor; Congressman Rodney Davis from the great State of Illinois.

Rodney, can you share a few words with us this morning?

Mr. Davis. Thank you, Mr. Chair.

It will be great to see you again next week. I can't wait until we get a chance to get back in the hearing room to do these hearings and bring these witnesses out in person. So I heard some upcoming guidance from the Office of Attending Physician today. I will promise you, sir, I will sit way at the other end of the dais if it makes you and Mr. Aguilar feel more comfortable. But I would love to be able be there and share some of those great sweet potato chips that you guys have in your office.

Sir, Mr. Chair, if I could real quick ask unanimous consent to enter into the record a copy of our House Administration Minority Ballot Harvesting Report, a copy of the Election Assistance Commission data turnout in elections, and also the correspondence that we have gathered between the State of California and SKDKnickerbocker and the Election Assistance Commission on the

misuse of taxpayer dollars.

Chairman BUTTERFIELD. Without objection.

Mr. DAVIS. Thanks, sir, very much.

Hey, listen, I am really excited to listen to the witnesses here today. I certainly hope, Mr. Chair, coming forward as we move these Subcommittee hearings into the future that we might have a chance to invite some of the election administrators that we are going to talk about today. I would like to find out why certain areas of Georgia and Wisconsin had so many poll closures. I want to know what their justifications are, what they were. Now is our time to go back and find out these answers as to why so many polling locations in majority Democrat areas were shut down before the election. I want to know what was the problem. Was it a COVID-related issue? Was it something that is related to long term to a lack of election judges? What do we need to do as a committee to show some leadership here? And I certainly am glad we are going to hear from a lot of educational and research experts today, but I do believe in the future if we could sit down and come up with a good two-panel hearing of this Subcommittee for election administrators nationwide so that we can ask, especially those in the areas of Georgia and Wisconsin, where we saw disastrous results from polling location closures, I would love this Subcommittee to be able to take that on.

And, with that, Mr. Chair, I yield back the balance of my time. Chairman BUTTERFIELD. Thank you. The gentleman yields back.

And thank you, Mr. Davis.

And let me just assure you, Rodney, that we are just as eager as you are to return to in-person hearings, but we are just concerned. We are concerned that not all staff and not all of our Members have been vaccinated. But I clearly understand your concerns, and we have talked about it in our Democratic Caucus. And please know that we will return to in-person hearings just as soon as we can do it safely.

In just a moment, I will introduce our witnesses, but before I do so, as a reminder to our witnesses, each of you will be recognized for 5 minutes. There is a timer there on your screen. Please be sure that you can see the timer and are mindful of this 5-minute time limit. Your entire witness statements will be made part of the record, and the record will remain open for at least 5 days for additional materials to be submitted.

And so I welcome, I welcome each of our witnesses today.

Joining us on our first panel are Mr. Stephen Pettigrew of the University of Pennsylvania; Ms. Jesselyn McCurdy of the Leadership Conference on Civil and Human Rights; Mr. Kevin Morris of the Brennan Center for Justice; Ms. Mimi Marziani of the Texas Civil Rights Project; and Mr. Donald Palmer, who is the chair of the U.S. Election Assistance Commission.

Let me first talk about Dr. Pettigrew. Dr. Pettigrew is the director of the data sciences of the University of Pennsylvania's program on opinion research and election studies and the deputy executive director of the Fox Leadership Program. Prior to joining Penn, Dr. Pettigrew received his Ph.D. in political science and a master's in statistics from Harvard University and worked at the MIT election data and science lab.

Very impressive resume. Thank you for joining us.

Ms. Jesselyn McCurdy is the interim executive vice president for government affairs at the Leadership Conference on Civil and Human Rights. Prior to joining the Leadership Conference, Ms. McCurdy served as deputy political director at the National Political Advocacy Department of the ACLU and as counsel for our House Judiciary Committee.

Thank you for your work over the years.

Kevin Morris is a quantitative researcher with the Brennan Center for Justice's Democracy Program focusing on voting rights and elections. His research focuses on the impact of laws and policies on access to the polls. Now, Mr. Morris has a bachelor's in economics from Boston College and a master's in urban planning from NYU's Wagner School with an emphasis on quantitative methods and evaluation.

Mimi Marziani is the president of the Texas Civil Rights Project, where she has served since 2016. She also teaches election law and policy at the University of Texas School of Law. Before moving to Texas, our witness spent several years as counsel for the Democracy Program at the Brennan Center for Justice, where she litigated election law cases in Federal courts, including the United States Supreme Court.

Finally, Donald Palmer. Mr. Palmer is a commissioner with the U.S. Election Assistance Commission and the Commission's current chair. Commissioner Palmer was confirmed by the Senate on 2 January of 2019. Prior to serving as Commissioner, he served as secretary of the Virginia State Board of Election, as Florida's director of elections, as a trial attorney with the Voting Rights Section of the Department of Justice. He served two decades in the United States Navy.

And thank you, sir, for your incredible service to our country. At this time, I am going to recognize each one of our witnesses for 5 minutes.

We will start with Dr. Pettigrew.

Dr. Pettigrew, you are now recognized, sir, for five minutes.

STATEMENTS OF STEPHEN PETTIGREW, DIRECTOR OF DATA AND SCIENCE, UNIVERSITY OF PENNSYLVANIA; JESSELYN McCURDY, INTERIM EXECUTIVE VP FOR GOVERNMENT AFFAIRS, LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS; KEVIN MORRIS, QUANTITATIVE RESEARCHER, DEMOCRACY, BRENNAN CENTER FOR JUSTICE; MIMI MARZIANI, PRESIDENT, TEXAS CIVIL RIGHTS PROJECT; AND DONALD PALMER, CHAIR, U.S. ELECTION ASSISTANCE COMMISSION

STATEMENT OF STEPHEN PETTIGREW

Mr. Pettigrew. Thank you, Chairman Butterfield, Ranking Member Steil, and members of the Committee. Thanks for the opportunity to testify here today.

I am Dr. Stephen Pettigrew from the University of Pennsylvania. I am here to talk about my research on the problem of long lines at polling places and the disproportionate impact that they have on voters of color.

Managing the length of lines at polling places is one of the most crucial tasks that State and local election officials must handle. In 2013, the bipartisan Presidential Commission on Election Administration recommended that no voter should have to wait more than half an hour to vote.

In the November 2020 election, however, approximately 16 million voters waited in line longer than this 30-minute benchmark. About 5 million waited longer than an hour. As the problem of long lines has grown in recent decades, so too has the political science literature on the topic.

In my testimony today, I would like to highlight three key findings from that research. The first finding is that non-White voters tend to face considerably longer waits to cast their ballots than White voters. This racial difference is the consistent finding in research about long lines no matter what data or research methodology is used.

In my own research, I find that, all other things equal, non-White voters are three times as likely as White voters to wait more than 60 minutes and six times as likely to wait more—I am sorry—three times as likely to wait longer than 30 minutes and six times longer than 60 minutes to vote.

Even in 2020 when average wait times were longer than any election with since at least 2008, this racial gap persisted. Roughly 17 percent of White voters waited more than 30 minutes compared to 23 percent of Black voters, and one out of every 20 Black voters waited longer than an hour compared to one out of every 44 White voters

One possibility that could explain this gap is that non-White voters are more likely to live in urban areas and White voters in rural areas. If the logistics of elections are just harder in cities, then that could account for the racial gap in wait times. My research finds that, although this is a piece of the story, the urban world divide accounts for less than half of the racial gap in wait times, and this

leads me to the second conclusion from the political science literature, which is that the gap in wait times by race is largely driven by fewer resources, like poll workers or voting machines being

allocated to predominantly non-White polling places.

Policies like precinct closures, shortening voting hours, and voter ID laws can add significant impacts on wait times especially for non-White voters. In some ways, lines at polling places are similar to lines at the grocery store or traffic on the highway. If there is too few cashiers or lanes, then shoppers or vehicles get backed up. And, similarly, if a precinct has too few poll workers and not enough voting machines, then lines will develop.

My research and that of other political scientists finds that the ratio of voters to poll workers or voters to machines tends to be

more favorable in mostly White precincts.

In addition to adding more resources to polling places, policy-makers and election officials can influence line length in other ways. Opening new polling places that are well staffed and well resourced can decrease line length, while closing precincts without making dramatic changes to the unclosed ones can cause significantly longer waits. Increasing the hours of operation at polling places or the number of days of early voting can help mitigate long lines, while cutting hours has the opposite effect, causing voters to show up in larger clusters creating the potential for bottlenecks.

And, lastly, increasing access to vote by mail is another effective way to shorten lines by decreasing the number of voters showing

up to vote in person.

The third key finding from research about long lines is that they can have negative consequences on the voter and the electoral system as a whole. Lines can be a big vote burden on those who have less flexibility in their schedule because of a tight work schedule

or because they have to pick up their kids at school.

In my research, I found that voters who experience a long wait are significantly less likely to turn out in subsequent elections, and given that 16 million voters experienced a long wait in 2020, my research shows that hundreds of thousands could be turned off from voting in future years. Even more than that, researchers have found that voters who experience a long line are less confident in the integrity of the electoral system as a whole. They are less likely to believe that their ballot will be kept secret or that their votes will be properly counted.

Standing in a long line to vote is perhaps one of the most common ways that voter satisfaction has eroded. It is clear from decades of research that non-White voters are significantly more likely to bear the cost of long line than White voters. This fact is even more troubling when you consider that long lines decrease future

turnout and erode voter confidence.

Going forward it is essential that when State and local election officials make changes to election procedures, they don't put their thumb on the electoral scale by widening the race gap in wait times.

I want to thank the committee for their time and for holding hearings on this important topic of improving the health of our democracy, and I look forward to any questions that you have.

Thanks.

[The statement of Mr. Pettigrew follows:]

Written Testimony of Dr. Stephen Pettigrew Director of Data Sciences, Program on Opinion Research and Election Studies Deputy Executive Director, Robert A. Fox Leadership Program University of Pennsylvania

Before the Subcommittee on Elections for the Committee on House Administration of the United States House of Representatives

Hearing on "Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot"

June 11, 2021

Summary

- Line length is a persistent and systematic problem in many areas: the same places with long lines in one election are more likely to have long lines in elections two or four years later.
- A voter's race is one of the strongest predictors of how long they wait in line to vote: nonwhite voters are three times more likely than white voters to wait longer than 30 minutes and six times as likely to wait more than 60 minutes.
- My research shows that the gap in wait times between white and non-white voters is more
 than simply an urban/rural divide, although that divide also exists. Even within a given
 urban, suburban, or rural county, lines tend to be longer in neighborhoods and precincts with
 higher concentrations of non-white voters.
- One of the reasons why non-white voters wait longer to vote is that fewer resources, such as
 poll workers and voting machines, are allocated to precincts with more non-white registrants.
- Policies like precinct closures, shorter voting hours, and voter ID laws can lengthen lines in
 polling places, particularly those with a high share of non-white registrants.
- Waiting in a long line to vote can make voters less likely to turn out in future elections.
- Voters who wait in a long line are less confident in the integrity of the electoral system as a
 whole.

I. Introduction

Managing the length of lines at polling places is one of the most crucial tasks that state and local election officials must handle. The experience that a voter has at their polling place is an important, but often understated, piece in the democratic process. Having a positive experience while voting inspires confidence in the electoral system as a whole, and makes voters feel more confident that their vote—and the votes of others—was counted accurately. When

voters have a negative experience because of a long line, my research shows that they are less likely to turn out in subsequent elections.

The political science literature on the topic of long lines to vote has been steadily growing over the past twenty years. That research has found that long lines at polling places are not random and do not come about by happenstance—instead, there are systematic factors which contribute to the problem. These systematic factors result in a substantial difference between the wait times for white voters and non-white (especially Black) voters. \(^1\) Voters in predominantly non-white neighborhoods are more likely than those in white neighborhoods to bear the additional cost of a long wait to cast their ballot.

My research, and that of other political scientists, highlights that state-level policymaking and resource allocation at the local-level can play an important role in how long voters must wait to vote. Because voters' experiences at the polling place have downstream consequences on their future turnout behavior and their confidence in the electoral system, policies that widen the wait time gap between white and non-white voters have the potential to put a thumb on the electoral scale by reshaping the electorate.

II. Long lines are a chronic problem in certain areas

In 2013, President Obama convened the bipartisan Presidential Commission on Election Administration (PCEA). The Commission comprised state and local election officials and business leaders and was chaired by the chief lawyers for the Obama and Romney 2012 presidential campaigns. One of the charges given to the committee was to study the problem of lines at polling places and provide a set of best practices for election administrators to deal with the problem. A key recommendation from the PCEA's January 2014 report is that "as a general rule, no voter should have to wait more than half an hour in order to have an opportunity to vote".

The Cooperative Election Study indicates that in the November 2020 election, approximately 16 million voters waited in a line for longer than the 30-minute benchmark set by the PCEA. This was 17.2 percent of all Election Day and in-person early voters in 2020. These data show that about 5 million people (5.5 percent of in-person voters) waited more than an hour to vote—twice the upper limit recommended by the PCEA. Altogether, almost one out of every six in-person voters waited longer than 30 minutes to vote in November 2020.

¹ The Census Bureau recognizes "Hispanic" to be an ethnicity, rather than a race. When I refer to "white" voters throughout this testimony, I specifically am referring to white voters who are also not Hispanic. Similarly, when I refer to "non-white voters" I am referencing non-white or Hispanic voters.

² "The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration." January 2014. Quotation from page 14. Emphasis in the original report. At writing of this testimony, the PCEA Report is available through the U.S. Election Assistance Commission's website: https://www.eac.gov/election-officials/pcea.

³ These statistics come from the 2020 Cooperative Election Study Common Content. The data are available at: https://doi.org/10.7910/DVN/E9N6PH.

What makes these figures more troublesome is that many of the states and counties that had long wait times in 2020 also had long lines in prior elections. The Elections Performance Index (EPI), a non-partisan, data-driven effort to evaluate states' election administration performance, provides evidence that lines are a recurring problem. The EPI has measured the average number of minutes voters waited in line to cast their ballot in federal general elections since 2008. When comparing any two election years, there is always a strong and positive correlation between a state's average wait times in year A and year B. To illustrate this point with an example, Vermont had the shortest average wait time in the 2008 election. In each election between 2012 and 2020, Vermont was among the top-five states with the shortest wait times in the country. On the other end of the scale, South Carolina had the longest average wait time in 2008, and was never better than the fourth-worst state between 2012 and 2020.

One major concern about long lines being a chronic problem in certain areas is that some voters must budget a lengthy portion of their day every time they want to cast a ballot, while others may vote in every election for years and never stand in a line. As I discuss in the next section, what makes this even more troubling is that non-white voters are more likely to be in the first category, and white voters are more likely to be in the second. And this gap in wait times is largely driven by resource allocation decisions and other administrative policies—a point I return to in Section IV of this testimony.

III. Non-white voters tend to experience wait times

Another consistent pattern about wait times at polling places is that non-white voters are considerably more likely to face a long wait time than white voters. This pattern is particularly pronounced among Black voters. Political scientists have studied line length using numerous methodologies, and a strong relationship between race and wait times is one of the most robust findings to emerge from these studies. In my research, I have found that the race gap in wait times is driven by more than simply an urban-rural divide. A precinct with a high concentration of non-white voters tends to have longer lines than a precinct in a predominantly white area, even if those two precincts are in the same urban or rural county.

The most common approach used by political scientists to measure election lines is survey research. The Cooperative Election Study (CES)⁸ and the Survey of the Performance of American Elections (SPAE)⁹ are two high-quality academic surveys which have been an

⁴ The Pew Charitable Trusts launched the Elections Performance Index in 2013 Pew Charitable Trusts, and in 2017 the MIT Election Data and Science Lab took over administration of the project. More information about the EPI is available at: https://elections-blog.mit.edu/about.

⁵ Due to data availability problems in 2010, that year is excluded from the EPI.

⁶ See page 79 of the August 2018 EPI Methodology Report (https://elections-blog.mit.edu/sites/default/files/2020-08/2016-epi-methodology.pdf) and page 34 of the 2018 Update to the EPI Methodology (https://elections-blog.mit.edu/sites/default/files/2020-08/2018-epi-update(1).pdf).

⁷ EPI data available at: https://elections.mit.edu/#/data/indicators?view=indicator-profile&indicator=WTV.

⁸ Prior to 2020, this was known as the Cooperative Congressional Election Study, or CCES. CES/CCES data are available at: https://cces.gov.harvard.edu/.

⁹ The SPAE is published by the MIT Election Data and Science Lab. https://electionlab.mit.edu/research/projects/survey-performance-american-elections

invaluable resource for studying long lines. In the days and weeks immediately following a federal election, each survey asks voters, "Approximately, how long did you have to wait in line to vote?"

My research has used these data sources to show that, compared to white voters, voters who are not white are "three times as likely to wait longer than 30 minutes and six times as likely to wait more than 60 minutes" to cast their ballot. 10 Other researchers have corroborated this result in their own work, finding that the average amount of time a white voter tends to wait to vote is approximately half as long as the average wait for non-white voters. 11

My initial analysis of data from the November 2020 presidential election suggests that not only was the proportion of voters who waited longer than 30 minutes higher than in any federal election since at least 2008, the racial gap in wait times also persisted. 12 A higher percentage of non-white voters than white ones had to wait in excess of 30 or 60 minutes to cast their ballot in-person. The results are particularly strong when you compare Black voters to white ones. While roughly 17 percent of white voters encountered a line longer than 30 minutes, about 23 percent of Black voters had a similar experience. Similarly, more than 1 in every 20 Black voters waited longer than 60 minutes, compared to 1 in every 44 white voters.

Researchers have found similar patterns when measuring line length with tools other than surveys. Some of these tools include leveraging information about the time that precincts close at the end of the day, ¹³ stationing observers inside of polling places to record information about the flow of voters through the precinct, 14 partnering with local officials to have poll workers record information about line lengths throughout the day, 15 and using cell phone tracking data. 16 Every

¹⁰ Stephen Pettigrew. 2017. "The Race Gap in Precinct Wait Times: Why Minority Precincts are Underserved by Local Election Officials." Political Science Quarterly 132. Quotation from page 527.

¹¹ Charles Stewart III. 2013. "Waiting to Vote in 2012." Journal of Law & Politics 28(4).

Charles Stewart III and Stephen Ansolabehere. 2015. "Waiting to Vote." Election Law Journal: Rules, Politics, and Policy. 14(1).

 ¹² The figures in this paragraph were calculated using data from the 2020 Cooperative Election Study.
 13 Stephen Pettigrew. 2021. "The Downstream Consequences of Long Waits: How Lines at the Precinct Depress Future Turnout." *Electoral Studies* 71.

Michael C. Herron and Daniel A. Smith. 2015. "Precinct Closing Times in Florida During the 2012 General Election." Election Law Journal 14(3).

Christopher Famighetti, Amanda Melillo, and Myrna Pérez. 2014. "Election Day Long Lines: Resource Allocation." Brennan Center for Justice.

¹⁴ Robert M. Stein, et al. 2020. "Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-county Study." Political Research Quarterly 73(2).

Douglas M. Spencer and Zachary S. Markovits. 2010. "Long Lines at Polling Stations? Observations from an Election Day Field Study." Election Law Journal: Rules, Politics, and Policy 9. ¹⁵ Matthew Weil, Tim Harper, Charles Stewart III, and Christopher Thomas. 2019. "The 2018 Voting Experience:

Polling Place Lines." Bipartisan Policy Center. John C. Fortier, Matthew Weil, Charles Stewart III, Tim Harper, and Stephen Pettigrew. 2018. "Improving the Voter

Experience. Reducing Polling Place Wait Times by Measuring Lines and Managing Polling Place Resources. Bipartisan Policy Center.

United States Government Accountability Office. "Observations on Wait Times for Voters on Election Day 2012." GAO-14-850.

¹⁶ M. Keith Chen, Kareem Haggag, Devin G. Pope, and Ryne Rohla. 2019. "Racial Disparities in Voting Wait Times: Evidence from Smartphone Data." Conditionally accepted at *The Review of Economics and Statistics*.

one of these studies has shown that lines tend to be shorter in precincts with higher proportions of white voters and longer in precincts with higher proportions of non-white voters.

IV. Factors that influence the length of lines at polling places

Given that there is a clear relationship between race and wait times, the next question asked by researchers is why this relationship exists. It is certainly the case that sometimes long lines can be attributed to unique factors at a precinct: a voting machine malfunction, a poll worker calling-in sick, a busload of voters being dropped off at the same time. However, my research and that of other political scientists has found that long lines tend to be driven by more systematic factors. These factors can be grouped into two categories: limited resources at polling places and limited opportunities to cast a ballot.

A. Resources are more limited in minority precincts

In my research, I investigate whether the difference in wait times between white and non-white voters can be attributed to an urban-rural divide. If line management is more complicated in more densely populated areas, then that may explain why a typical Black or Hispanic voter living in a city is more likely to encounter a long line when they go to vote than a typical white voter living in a rural area.

My research has found that the urban-rural divide does not fully account for the racial differences in wait times. ¹⁷ In fact, the urban-rural divide accounts for less than half of the race differences in voting line length. Instead, the root of the gap seems to be in the allocation of resources to precincts. In the areas I studied, predominantly white precincts had about 20 fewer voters per voting machine, and 90 fewer voters per poll worker than predominantly minority precincts.

This uneven allocation of resources, which has been noted throughout the political science literature, makes it more likely for bottlenecks to develop in precincts in minority neighborhoods, leading to longer lines for those voters. ¹⁸ Having too few voting machines or too few poll workers to check-in voters, for example, means that bottlenecks may develop as voters wait to cast their ballot or check-in to vote. These bottlenecks cause lines to grow longer for voters waiting to complete those steps of the voting process.

B. Limiting opportunities to vote can increase wait times

Another major contributor to the length of lines is the number of options and opportunities that voters have to cast their ballot. The findings from queueing theory¹⁹ help to explain the impact that policy changes like precinct closures, adding days to the early voting period, or voter ID requirements can have on voting lines. Research has shown that these policy

¹⁷ Pettigrew, 2017.

¹⁸ Michael C. Herron and Daniel A. Smith. 2016. "Precinct Resources and Voter Wait Times." *Electoral Studies* 42. Charles Stewart III. 2015. "Managing Polling Place Resources." Caltech/MIT Voting Technology Project.

¹⁹ Queueing theory is a branch of operations research which has been applied to the study of lines at polling places

changes often have disparate effects on voters of different races, contributing to differences in wait times experienced by voters. For example, even though a voter ID requirement might apply to all voters in a state, researchers have found that ID requirements increase line length more in minority precincts because voters in those precincts are less likely to have a valid form of identification. ²⁰ Because it takes more of a poll worker's time to check-in a voter without an ID card, having one fewer poll worker to check-in other voters will cause lines to back-up, even for voters who do have identification.

Queueing theory principles tell us that back-ups occur when the number of arrivals (i.e. voters) overwhelms the system enough to generate a bottleneck. Conceptually, you can think of a voting precinct as similar to check-out lines at a grocery store or traffic moving along a highway. Opening a new check-out register or adding an additional lane to the highway can help shorten lines and ease traffic by spreading out shoppers and vehicles. Ultimately, the best-case scenario for avoiding bottlenecks occurs when new arrivals show up at evenly spaced intervals. In the context of a polling place, 60 voters arriving one-per-minute is less likely to result in a long line than if all 60 arrive at the same time.

Although they do not have the ability to control when voters arrive at the precinct, policymakers and local election officials can provide more opportunities and options to vote, making it more likely that voters' arrivals will be more spaced out over time. In the context of voting, these opportunities and options to vote can come in one of three forms:²¹

1. Opening new polling places that are well-staffed and well-resourced can decrease the chances of long lines occurring at any single precinct. Closing polling places increases the number of voters per precinct, making it more likely that long lines develop. Precinct closures can cause longer lines when they are not accompanied by dramatic changes to the remaining polling places. If precincts are closed for the sake of cutting costs, then the remaining polling places may end up with fewer poll workers or voting machines per voter, which would increase wait times. Similarly, even if the resources per voter remains constant, the physical size of the remaining polling places may not be large enough to accommodate the increased number of voters, creating the potential for bottlenecks. Also, if polling places in non-white neighborhoods are more likely to be closed, ²³ then

²⁰ Stein, et al., 2020.

²¹ Justin Levitt. 2013. "Fixing That: Lines at the Polling Place." *Journal of Law & Politics* 28(4).

²² One approach to consolidating precincts that has been successfully used in some parts of the country is transitioning from the traditional "neighborhood precinct" model of polling places to a "vote center" model. With vote centers, there are fewer locations to vote, but those locations are larger, conveniently located, and have as many (if not more) poll workers and voting machines than the total in all the old neighborhood precincts. Even though this model cuts down the number of polling places, it is possible to implement it in a way that cuts down on wait times. Implementing a vote center model is a significant departure from the status quo in most parts of the country, and is not nearly as common as common simply closing precincts and reassigning those voters to the remaining ones.
²³ Michael E. Shepherd, Adriane Fresh, Nick Eubank, and Joshua D. Clinton. Forthcoming. "The Politics of Locating Polling Places: Race and Partisanship in North Carolina Election Administration, 2008-2016." Election Law Journal

Joshua D. Clinton, Nick Eubank, Adriane Fresh, and Michael E. Shepherd. Forthcoming. "Polling Place Changes and Political Participation: Evidence from North Carolina Presidential Elections, 2008-2016." *Political Science Research and Methods*.

the added commute time for those voters adds to the time burden placed upon them, even if the wait times at the precinct do not change.

- 2. Increasing the hours of operation of polling places and number of days of early voting encourages voters to arrive at different times, thereby diminishing their chance of having to wait in a line. Decreasing the number of hours or days has the opposite effect, causing lines to grow longer because of large clusters of voters all arriving at the same time.
- 3. Providing broader access to voting-by-mail can decrease line length by decreasing the number of voters showing up to vote in-person, even if the overall number of ballots cast remains the same. Restricting mail ballot opportunities forces voters to show up in-person to vote, thereby increasing the strain on polling places.

Because of the COVID-19 pandemic, the November 2020 election provides a lens into how big changes may interact with each other. On one hand, most states experienced a dramatic up-tick in the number of voters choosing to vote through the mail. If this were the only change to have occurred, then we would expect to see shorter lines in 2020 than in prior years. On the other hand, COVID-19 safety protocols lengthened the amount of time the voting process required, and some states and counties had difficulties recruiting poll workers and had fewer polling locations than normal. Even though there were approximately 15 million fewer in-person voters in 2020 than 2016, the consequence of all these administrative changes was that the average in-person voter in 2020 waited longer to cast their ballot than in 2016.

V. Long lines diminish turnout and make voters less confident in the electoral system

In addition to studying the causes of long lines, political scientists have also considered the consequences that long waits can have on voters. The most basic impact of waiting in a line is the time burden placed upon the voter—what has been referred to as a "time tax." ²⁴ Compared to those who live in areas with consistently short lines, voters who live in areas with chronically long lines must sacrifice more of their time to exercise their right to vote. This can be a particular burden for people who have less flexibility in their schedule, whether because they have constraints in their work schedule or because they have childcare or eldercare responsibilities.

Long lines at polling places have also been found to have an impact on voter turnout. One way that lines impact turnout occurs when a voter joins the line but leaves before casting theirs ballot—referred to in queueing theory as "reneging." Although it is difficult to collect data on reneging, two studies find that there is a positive correlation between the length of the line and the number of people who renege by leaving the line. ²⁵ The studies find that lines with as few as five people significantly increase the chance that somebody will leave the line before voting.

²⁴ Elora Mukherjee. 2013. "Abolishing the Time Tax on Voting." Notre Dame Law Review 85(1).
Donald L. Davison and Michael Krassa. 2019. "Time Taxes and Voting Queues: The Voting Rights Act after Shelby County, Alabama v. Holder (2013)." National Political Science Review 20(1).

²⁵ Spencer and Markowitz, 2010. Stein, et al., 2020.

Some of these voters may return at another time to cast a ballot but limiting voting hours or early voting opportunities diminishes their opportunities to do so.

My research has also found that long wait times have a detrimental impact on turnout in subsequent elections. ²⁶ Voters who waited between 30 and 45 minutes to vote were 1 percentage point less likely to turn out to vote in the next election, compared to voters who waited less than 15 minutes. When considering voters who waited more than 60 minutes, this impact increases to about 1.6 percentage points. While these percentages may seem small, it is important to remember that in many elections millions or tens-of-millions of voters experience long lines, meaning that future decreases in turnout can be in the hundreds-of-thousands. Additionally, because racial minorities are disproportionately likely to encounter a long line to vote, their turnout is disproportionately impacted. My research finds that in 2014, Black voters made up roughly 10 percent of voters, but over 20 percent of people who did not turn out because of a long line they experienced in 2012.

Another effect of long lines is that they negatively impact voters' confidence in the electoral system as a whole. Voters who wait in a long line are less likely to believe that their vote choices would be kept a secret, and less likely to be confident that their vote was counted correctly. ²⁷ Additionally, the amount of time a voter waits in line has a substantial effect on whether they believe that the poll workers at their precinct were doing a good job, which is troubling given that many of the causes of long lines are completely out of the control of individual poll workers. ²⁸

VI. Conclusion

By-and-large, local election officials and poll workers want voters to leave their polling place with a sense of civic pride and satisfaction in the electoral process. Standing in a long line before being able to vote is, perhaps, one of the most common ways that this satisfaction is eroded. The burdens of long lines are not uniformly experienced by all voters. Instead, voters of color are considerably more likely than white voters to be confronted with a long line standing between them and the ballot. This fact becomes even more troubling when it is coupled with research that finds that long lines diminish a voter's chances of turning out in the next election and erode the voter's confidence that their vote was counted correctly. The unique circumstances of the 2020 pandemic notwithstanding, election officials in many parts of the country have made positive progress on the problem of long lines in recent years. There always remains, however, the potential that new changes to election procedures and election law can create back-sliding—resulting in longer lines and a widening gap in wait times between white and non-white voters.

²⁶ Pettigrew, 2021.

²⁷ Michael C, Herron, Daniel A, Smith, Wendy Serra, and Joseph Bafumi. 2017. "Wait Times and Voter Confidence. A Study of the 2014 Midterm Election in Miami-Dade County." From Races, Reforms, & Policy: Implications of the 2014 Midterm Elections. Edited by Christopher J. Galdieri, et al. University of Akron Press. Reforms, 28 Pettigrew, 2021.

Chairman Butterfield. Thank you, Dr. Pettigrew. At this time, the chair will recognize Ms. McCurdy for five minutes.

STATEMENT OF JESSELYN McCURDY

Ms. McCurdy. Chairman Butterfield, Ranking Members Steil and Davis, and members of the Subcommittee, thank you for the opportunity to testify today.

And thank you, Chairman Butterfield, for your leadership in call-

ing this hearing.

It is a critically important discussion as we watch an ongoing coordinated and calculated attack on the foundation of our democracy, the freedom and right to vote. Last year, across race, income, and ZIP Code, and in the face of a once-in-a-century global pandemic, Americans turned out to vote in historic numbers. It was an awe-inspiring moment and a declaration of the great possibility of our Nation to live up to the highest ideals.

Yet, in response, some politicians are trying to take us backwards by creating barriers for Black, Brown, and indigenous, and new Americans who want to exercise this fundamental right.

The path was paved by these politicians by the U.S. Supreme Court in 2013 when five Justices eviscerated section 5 of the Voting Rights Act in the *Shelby County v. Holder* decision. Section 5, known as the heart of the Voting Rights Act, enabled the Federal Government to block proposed discriminatory voting restrictions in places with pervasive histories of discrimination. It also ensured that changes to voting rules were public, transparent, and evaluated to protect voters against discrimination based on race and language. It is imperative that Congress restore preclearance given the crisis our democracy is facing now.

While these discriminatory barriers take many form, I will focus on just one today, the removal of the varied locations where ballots are cast and counted. Polling place closures and consolidations are a pernicious and incredibly effective tactic for disenfranchising voters, particularly voters of color, older voters, rural voters, and voters with disabilities—and since the *Shelby* decision, jurisdictions closing polls at alarming speeds.

The Leadership Conference Education Fund documented the trend in our report "Democracy Diverted" when analyzing polling place closures in 757 counties once covered under section 5.

Chairman Butterfield, I would like to enter this report into to-

day's hearing record.

Chairman Butterfield. All right. Unless there is objection, the

report is received.

Ms. McCurdy. Shockingly, we found 1,688 polling places were closed between 2012 and 2018. Overall, Texas alone closed 750 polling places. Arizona closed 320, and Georgia closed 214. Louisiana, Mississippi, Alabama, and North Carolina combined closed over 300 polls. Many of these closures are happening in communities of color rather than in majority White neighborhoods, and in many instances officials provided no notice to voters that their voting precincts were closed or relocated. Not surprisingly, Georgia closed a higher percentage of polling places than any other State in 2018. In an extreme example, local policymakers left seven coun-

ties in the State with just one polling place to serve thousands of people over hundreds of square miles. This is patently unacceptable and particularly when viewed against America's persistent history

of denying the right to vote to Black Americans.

Before the *Shelby County* decision, section 5 enabled the Federal Government to analyze voting changes like polling place reductions to ensure they did not discriminate against voters of color. This critical protection no longer exists, and the consequence on voters' ability wait to cast a ballot are devastating. No one should be deterred from casting their ballot because of location, ability to take off work, access to transportation, or responsibilities at home.

Disturbingly, the attacks on our freedom to vote have only worsened following the 2020 election. According to the Brennan Center for Justice, since January, at least 14 States have enacted 22 laws that restrict the vote and put up barriers to the ballot box. Overall, State lawmakers have introduced at least 389 antivoter bills just this year. Voters of color will bear the brunt of these new restrictions and the most significant assault on voting rights since the Jim Crow era, and we know that if fully functioning voting rights had been in place in the Federal election, it could have prevented many if not all of these attempts to silence the voices of voters as well as any antivoter bill that has proliferated over the last decade.

The Leadership Conference urges Congress to pass the John Lewis Voting Rights Advancement Act. This historic bill will reverse the damage done by the Supreme Court in *Shelby County* and update the Voting Rights Act to reflect modern-day patterns

of voting discrimination.

Thank you very much for the opportunity to testify today.

[The statement of Ms. McCurdy follows:]

The Leadership Conference on Civil and Human Rights 1620 L Street, NW Suite 1100 Washington, DC www.c 20036





STATEMENT OF JESSELYN MCCURDY, MANAGING DIRECTOR OF GOVERNMENT AFFAIRS THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS

UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON HOUSE ADMINISTRATION SUBCOMMITTEE ON ELECTIONS

"Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot"

June 11, 2021

Chair Butterfield, Ranking Member Steil, and members of the subcommittee, thank you for the opportunity to submit testimony for this crucial undertaking toward ensuring all Americans can access a polling place in their neighborhood, as it is one of many ways that we protect everyone's right to vote freely and safely. I am privileged to represent The Leadership Conference on Civil and Human Rights and the vast civil and human rights community in appearing before you today.

The Leadership Conference is the nation's oldest and most diverse coalition of national civil rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to build a democracy that works for us all through legislative advocacy and public education. Our coalition consists of more than 220 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States. Much of our work includes addressing the ways in which some policymakers foster racial and ethnic inequities and disparities in our country's voting systems, which deny people of color their full right to have a voice in the key decisions like health care, infrastructure, and education. At The Leadership Conference, we aim to ensure that every voter, no matter their background or area code, can cast a vote and have it counted.

The right to vote is under attack in America today

The right to vote freely and safely has not been under this kind of heightened attack since the salvo of disenfranchisement laws that came on the heels of Reconstruction's demise. Today's assaults result from a conflagration of events: unmitigated disinformation, heightened polarization, politician-stoked fears, and white supremacy that made itself most visible on January 6 in an attempted coup on the federal government. This insurrection, moreover, resulted from the relentless efforts of then-President Trump and others to undermine the election, discount the votes of communities of color, and attempt to override the will of the people. They filed lawsuits — unsuccessfully — to discredit the legitimate ballots of Black and Brown voters. They demanded recounts, also largely unsuccessful, aimed at undoing an election that, according to national security agencies, was the most secure one to date. When these undemocratic —

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and, in many instances, racist — efforts failed, state legislators across the country began introducing antivoter legislation to restrict access and engineer ballot-counting for future elections.

Most Americans believe that voters get to choose our leaders; our leaders do not get to choose their voters. And yet, what we are witnessing today flies in the face of that fundamental belief. Since January of this year, at least 14 states have enacted 22 laws that roll back early and mail voting, add new hurdles for voter registration, impose burdensome and unnecessary voter identification requirements, strip power from state and local election officials to enhance voting access, and otherwise make voting more difficult. Overall, state lawmakers have introduced at least 389 anti-voter bills this year.

We know that if a fully functioning Voting Rights Act had been in place, the country could have prevented many, if not most, of these attempts to silence voters' voices. When the U.S. Supreme Court eviscerated the Voting Rights Act's longstanding Section 5 preclearance formula in the 2013 Shelby County v. Holder decision, jurisdictions previously covered under Section 5 immediately rammed through legislation that almost certainly would have been prevented by the federal government. One such instance made national headlines, and with good reason: Just one day after the Shelby County decision was announced. North Carolina enacted a monster bill including, among other anti-voter measures, a damning voter ID provision. Three years — and a handful of elections — later, the U.S. Court of Appeals for the Fourth Circuit banned North Carolina's voter ID law, calling it "the most restrictive voting law North Carolina has seen since the era of Jim Crow," and saying its provisions "target African Americans with almost surgical precision."

Since Shelby County, courts have found evidence of intentional discrimination against voters in at least 10 decisions. But just as concerning is the fact that handfuls of cases have not been brought for the very reason that litigation under Section 2 — which prohibits voting practices that discriminate on the basis of race, color, or membership in a language minority group — is both expensive and time intensive. Filing litigation for polling place closures, as discussed in more detail below, simply does not happen precisely because of these costs. As a result, significant numbers of Americans either lose their right to vote or must expend additional time and resources to cast ballots. Even when cases are brought against offending jurisdictions for any number of voting violations, the time in which it takes to litigate them leaves voters without necessary protections during intervening elections. And once an election is held — and missed by the voter — there is no do-over. Worse still, we do not know the full extent of violations which have occurred since jurisdictions formerly covered under Section 5 no longer notify federal officials of changes to voting laws and practices. Without Section 5, we do not have a full and clear picture of what is happening in the country.

Since Shelby County, the majority of formerly covered jurisdictions have shuttered significant numbers of polling places

Voting discrimination and disenfranchisement takes many forms, but one tangible way to quash Americans' voices is to physically remove the very locations where ballots are cast and counted. While they do not garner the attention that voter purges and ID laws do, polling place closures can be just as disenfranchising. When polling places close, voters must either travel long distances or, more often, wait

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in line at another nearby location inundated with voters who similarly learned (often at the last minute) their regular location had been shuttered. Think back to the 2020 primary election in Wisconsin: In Milwaukee, the make-up of which is disproportionately Black, voters were forced to stand in line for hours at one of only five polling places, after failing to have received absentee ballots in the mail just weeks after government officials shut down 175 sites. Madison, a much less populous town — with a whiter population — boasted a full 66 polling sites to Milwaukee's five. While residents in Madison easily popped in and out of polling places to vote, Black voters stood in line to vote for hours in Milwaukee. In previously covered jurisdictions, moreover, mass closures similarly resulted in long lines: In 2020, voters stood in line for hours in Phoenix, Arizona, and Atlanta, Georgia; Texas' shuttering of 334 polling places — more than any other state — in majority-Latino neighborhoods forced voters to drive farther than White people from other areas. Indeed, across the country Black and Latino voters consistently reported longer wait-times than White voters. This is unacceptable, particularly when viewed against America's persistent history of denying the right to vote to Black Americans.

Whereas covered jurisdictions had previously been required to demonstrate that closures would not have a discriminatory impact on voters — and additionally notify voters of closures when they were permitted to occur — post-Shelby, jurisdictions no longer need to notify voters of any change. Moreover, the U.S. Department of Justice is no longer required to analyze the impact of proposed changes on communities of color. To identify potentially discriminatory polling place relocations or closures and precinct changes, voters now must rely on reports from the news media, social media, or local advocates who attend city and county commission meetings or legislative sessions where these changes are made. In most cases, closures go unnoticed, unreported, and unchallenged. And there is no record of these lost votes.

Without a fully functioning Voting Rights Act, and consistent oversight by the Department of Justice in reviewing proposed changes to polling places, elections officials have unfettered discretion to shut them down without providing any valid reason. Institution of a clear process, on the other hand, would not only prevent closures for discriminatory reasons and/or effects but would also first require elections officials to work with the surrounding community in making these decisions. As it stands now, when the number of closures ramps up as turnout increases, particularly in Black and Brown neighborhoods, it is reasonable to presume ill intent on the part of jurisdictions previously covered by Section 5, given their long histories of discrimination. Officials in Georgia and Texas, for example, shuttered polling places at an alarming rate in communities of color, rather than in majority-white neighborhoods (and in some instances these closures were recommended by White consultants).

In 2016, when we issued our first report on polling place closures, we learned that local officials across half of all formerly covered states closed 868 polling places (from a sample of nearly half of all jurisdictions previously covered by Section 5 of the Voting Rights Act) between 2012 and 2016. In a 2019 follow up report, in which we expanded our review from 381 to 757 previously covered counties (out of a total of 800), we learned that between 2012 and 2018 a total of 1,688 polling places had been closed, almost double the rate we identified in 2016. Moreover, in 2018 alone there were 1,173 fewer polling places than there had been in the previous 2014 midterm election. These figures, and repeat patterns, demonstrate that without oversight the problem of closures prompted by discrimination will not solve themselves on their own.

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Of the 757 counties we analyzed in 2019, 298 counties, or 39 percent, reduced the number of polling places between 2012 and 2018. Polling place closures did not seem to vary to meet the different demands of each type of election; indeed, 69 percent of closures (1,173) occurred *after* the 2014 midterm election in anticipation of the presidential election, which would necessarily bring higher turnout in communities of color. This appears to be no accident: As pollsters predicted greater turnout for the 2018 midterm, counties with a history of discrimination began shutting down access to voting booths at an alarming rate. Of course, to better understand the potentially discriminatory impact — and aim — of these closures, additional analysis such as the kind the Justice Department once did under a fully functioning Voting Rights Act would have to be conducted.

All told, Shelby County paved the way for several previously covered states to each shut down hundreds of polling places: Texas shut down 750; Arizona shut down 320; and Georgia shut down 214. Quieter efforts to reduce the number of polling places without clear notice or justification spread throughout Louisiana (126), Mississippi (96), Alabama (72), North Carolina (29), and Alaska (6). Below we provide more detail on closings in Texas, Arizona, and Georgia.

Texas

Texas, a state where 39 percent of the population is Latino and 12 percent is African American, closed 750 polling places since *Shelby County*, by far the most of any state in our 2019 study. Five of the six largest closers of polling places are in Texas. With 74 closures, Dallas County, which is 41 percent Latino and 22 percent African American, is the second largest closer of polling places in the country (though the largest for Texas), followed by Travis County, which is 34 percent Latino (–67). For the 2020 election, Dallas County shuttered 250 additional polling places, and Travis County shut down an additional 35 locations. Harris County, which is 42 percent Latino and 19 percent African American (–52), and Brazoria County, which is 13 percent African American and 30 percent Latino (–37), tied with Nueces County, which is 63 percent Latino (–37). Many, but not all, of these polling places were closed as part of a statewide effort to centralize voting into "countywide polling places." This effort slashed the number of voting locations but allowed voters to cast ballots at any Election Day polling place. Without Section 5 of the Voting Rights Act, it is unclear how the move away from polling places toward a vote center model has impacted Black and Brown voters. This is all the more reason for a fully functioning Voting Rights Act with Department of Justice oversight.

Counties converting to vote centers were not the only ones shuttering polling places. Counties such as Somervell (-80 percent), Loving (-75 percent), Stonewall (-75 percent), and Fisher (-60 percent) — all of which have large Latino populations — cut voting locations even though they did *not* transition to vote

¹ As the Texas secretary of state <u>outlined</u> in early 2019, the conversion program allows counties to reduce polling places by 35 percent in the first year and 50 percent in a subsequent year. While the state encourages counties to engage with voters of color in a public forum or on a committee when determining the placement and number of polling places, it does not require such involvement. Nor does it require a study of the impact of proposed changes on voters of color or provide a means to ensure they are not racially discriminatory. In the absence of Section 5, the onus is on voters and community organizations to hold counties accountable for racial discrimination when closing polling places.

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centers. In fact, voters in counties that still hold precinct-style elections have 250 fewer voting locations than they did in 2012.

According to *The Guardian*, the places in Texas where Black and Latino populations are "growing by the largest numbers have experienced the vast majority of the state's poll site closures ... [T]he 50 counties that gained the most [B]lack and Latinx residents between 2012 and 2018 closed 542 polling sites, compared to just 34 closures in the 50 counties that have gained the fewest [B]lack and Latinx residents. This is despite the fact that the population in the former group of counties has risen by 2.5 million people, whereas in the latter category the total population has fallen by over 13,000."

Arizona

Arizona, a state where 30 percent of the population is Latino, four percent is Native American, and four percent is African American, has the most widespread reduction (-320) in polling places. Almost every county (13 of 15 counties) closed polling places after *Shelby County* — some on a staggering scale. Maricopa County, which is 31 percent Latino, closed 171 voting locations since 2012 — the most of any county studied and more than the two next largest closers combined. Many Arizona counties shuttered significant numbers of polling places, including Mohave, which is 16 percent Latino (-34); Cochise, which is 35 percent Latino (-32); and Pima, which is 37 percent Latino (-31).

These closures occurred despite national news coverage of the adverse impact of polling place reductions in Maricopa County in the 2016 presidential preference election, which forced voters to stand in line for five hours to cast a ballot. A settlement with civil rights groups led the county to reopen polling places for the 2016 general election — albeit with fewer than it had in the pre-Shelby County 2012 presidential election. Two years later, in 2018, instead of responding to the clear demand for more polling places, the county cut well over 100 voting locations. Moreover, for the 2020 election, Maricopa County downsized from a total of 500 polling place locations to just 100 vote centers. Between Arizonans' increased use of mail-in ballots and the county's experimentation with vote centers, it is difficult to determine the full impact of polling place closures on various communities without additional analysis that the Voting Rights Act would require. Yet it is incumbent upon the county to ensure that closures do not have a racially discriminatory impact. And oversight by the Department of Justice is all the more essential to help identify which closures are valid, and which are not.

Georgia

Georgia, a state where 31 percent of the population is African American and 9 percent is Latino, had 214 fewer polling places for the 2018 election than it did before *Shelby County*. Georgia stands out because its counties have closed higher percentages of voting locations than any other state we reviewed. The top five closers of polling places by percentage were Georgia counties: The top three counties in the state were Lumpkin (89 percent closed); Stephens (88 percent closed); and Warren, which is 61 percent African American (83 percent closed). Bacon County, which is 15 percent African American, and Butts

² Georgia is 31 percent African American, 9 percent Latino, 0.1 percent Native American, and 4 percent Asian.

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County, which is 28 percent African American, tied with 80 percent closed. Seven counties with major polling place reductions had only one polling site in 2018 to serve hundreds of square miles.

By June 2020, in time for the presidential election, "Georgia voters had 331 fewer polling places than in November 2012, a 13% reduction. Because of added pressure from the coronavirus pandemic, metro Atlanta alone had lost 82 voting locations by the time June's primary rolled around. Nearly half of the state's 159 counties had closed at least one polling place since 2012."

Georgia's polling place closures since *Shelby County* should also be considered in the context of the state's most recent anti-voter monster bill. In *direct backlash* to Black-led state-based organizations' effective get-out-the-vote strategies and enhanced turnout, Georgia lawmakers passed <u>legislation</u> that, among other things, gave counties the choice of whether to allow early voting on Sundays, thereby potentially cutting "Souls to the Polls" programs in many areas, and removing drop boxes from convenient locations near libraries and other government buildings (with all boxes being removed four days before an election), while also criminalizing the distribution of food and water to voters standing in long lines, who more often than not are disproportionately people of color. When viewed all together, it is practically impossible not to see a discriminatory anti-voter pattern.

The way forward: The power of Congress to protect every American's right to vote

Notwithstanding that <u>four times</u> as many voter-restrictive bills have advanced in statehouses this year than did last year at the same time, the vast majority of Americans — 80 percent, according to polling by Lake Research and others — urge restoration of the Voting Rights Act, with 70 percent favoring passage of the John Lewis Voting Rights Advancement Act. These numbers indicate that state-level attempts to impose additional barriers are *not* supported by most Americans. To counter these unpopular measures, Congress must act not only to ensure that every American can freely cast a vote, whatever their race or zip code, but also to effectively echo the will of the people.

When the Supreme Court issued the Shelby County decision in 2013, it misread both the people's will and the facts as they existed on the ground at the time. Indeed, we disagree with the Court's findings that "things have changed dramatically" and that, therefore, "extraordinary measures to address an extraordinary problem" are no longer needed. If anything, the events that have occurred since the ruling, culminating with a white nationalist coup on the U.S. Capitol followed by an unprecedented wave of anti-voter laws, show that we are indeed living in extraordinary times, with extraordinary problems, warranting extraordinary measures. The Voting Rights Act of 1965 was the most powerful — and effective — piece of civil rights legislation ever passed in the country. And its renewal, using an updated formula that comports with the Supreme Court's requirements laid out in Shelby County, is both

³ See

https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_B03002&prodType=table

⁴ In a February 2015 memo, the office of Brian Kemp, who was then serving as Georgia's secretary of state, encouraged counties to consolidate voting locations. He specifically spelled out twice — in bold font — that "as a result of the Shelby vs. Holder [sic] Supreme Court decision, [counties are] no longer required to submit polling place changes to the Department of Justice for preclearance."

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necessary and appropriate now. The John Lewis Voting Rights Advancement Act provides such a

Congress has recognized authority under the 14th and 15th Amendments, plus the Elections Clause of the Constitution (Article I, section 4), to protect the voting rights of all Americans. A shining example of congressional, bipartisan unity, the Voting Rights Act was initially passed - and subsequently reauthorized four times and signed into law by Republican presidents - with the support of extensive legislative records. At each reauthorization, sizable numbers of Democrats and Republicans alike agreed that, although the VRA had made meaningful strides in preventing discriminatory practices, we had not yet achieved equal access to the ballot for communities of color. Until very recently, much of the country, through its lawmakers and representatives, recognized its ongoing need. In 2006, following an exhaustive review of evidence and testimony demonstrating the VRA's effectiveness and continued need, President George W. Bush signed the reauthorization bill into law after both the House of Representatives (390-33) and the Senate (98-0) approved the measure. Congress, just 15 years ago, had conducted more than 20 hearings, heard from more than 90 expert witnesses, and collected more than 15,000 pages of testimony documenting the continued need for, and constitutionality of, the statute. The fact is, even 40 years after the VRA was enacted, states and localities continued to attempt discriminatory practices, whether with intent or in result. The VRA, through its preclearance provision, stopped these voting changes from ever getting implemented and denying the rights of citizens to vote.

Democracy in America has always been aspirational. And perfecting our union has always been imperfect, with periods of great strides toward inclusion and periods of retrenchment. We are currently living through a vicious period of retrenchment. And it is this body that must end it. Congress has the power — bestowed by the U.S. Constitution — to fulfill once again the great promise of American democracy; to make real the promise of a democracy that truly works for us all.

The bipartisan reauthorizations of the VRA demonstrate that we can come together as a nation to uphold our most sacred right. The very heart of our democracy — affecting every American, no matter their race, wealth, or political stripe — depends on ensuring that every eligible voter can have their say. Policies may shift, the pendulum will undoubtedly swing. But our collective voices must be heard, no matter who is in power. Indeed, there is no democracy otherwise. Congress has come to the country's rescue in the past, and it must do so again now. We urge you to pass historic legislation in honor of Congressman John Lewis that would restore the full protections of the Voting Rights Act and make the promise of our democracy real at last.

Chairman Butterfield. And thank you, Ms. McCurdy. At this time, the Chair will recognize Mr. Morris for five minutes.

STATEMENT OF KEVIN MORRIS

Mr. Morris. Chairman Butterfield, Ranking Member Steil, and members of the Committee, thank you for the opportunity to testify before you today in support of the John Lewis Voting Rights Advancement Act.

In the 8 years since the U.S. Supreme Court decided *Shelby County v. Holder* and suspended the 1965 Voting Rights Act's preclearance condition, voters of color have had to fight harder than White voters to exercise the rights central to the American project, namely, their right to participate without undue burden in their own self-government at the ballot box.

Election day experiences are a major source of disparities in our electoral system. Racial and ethnic minorities routinely face longer waits than White voters. The distribution of electoral resources, polling place consolidation, and voter list maintenance all put voters of color at a disadvantage on election day. Federal oversight is needed.

Over the past decade, scholars and activists have documented that racial and ethnic minorities wait longer to cast their ballots on election day. My research at the Brennan Center for Justice, a nonpartisan think tank, demonstrates that voters wait longer in places where there are fewer resources available. However, this cannot explain the full racial wait gap. In 2018, voters of color did not live in counties with fewer electoral resources. This complicates our understanding of the allocation of resources, and it means we need to focus on the equitable experiences on election day, that is, ending the racial wait gap not only on an equal distribution of resources. In other words, as much attention needs to be paid to the quality of resources as to their quantity.

Furthermore, while voters of color in 2018 may have lived in better resourced regions, their population growth is concentrated in counties with fewer resources. Put differently, resource allocation patterns are on track to exacerbate, not mitigate, the racial wait gap in coming years.

Nowhere do polling place resources matters more than in the number of poll sites available. A large body of empirical work has demonstrated the disenfranchising impact of polling place glitches.

This was thrown into sharp relief in 2020 by the COVID-19 pandemic when the city of Milwaukee, Wisconsin, shuttered nearly all of their polling places for the Presidential primary. Just five out of more than 180 remained open. This last-minute decision to close the polling places came against the backdrop of a surge in vote-by-mail usage. However, as my research demonstrates, the accessibility of vote by mail was not enough to offset large declines and turnout in the city. Rather, turnout declined by an estimated 8 percentage points or nearly a third. This negative effect was even larger for Black voters.

Increases in voter purges in formerly covered jurisdictions have also led to a deterioration in polling place quality. The Shelby County decision led to a dramatic increase in voter purge rates in jurisdictions formerly covered under section 5 of the VRA. Wrongful purges can and do disenfranchise some voters, but the consequences extend even to voters whose registrations were not canceled.

My research shows that increased purge rates were associated with higher provisional ballot rates in formerly covered jurisdictions. Voters spend longer filling out provisional ballots than they do ordinary ones, which can cause slowdowns for entire polling places and not just the voters who were wrongfully purged. Given that formerly covered jurisdictions were covered precisely because of their histories of racial discrimination, the ripple effects of increased provisional ballots are occurring where voters were once but are no longer protected by section 5 of the VRA.

It might seem that decisions about election day resources should be left up to the States and that Federal intervention is unnecessary. Unfortunately, that is not the case. As my research documents, mandatory minimum resource requirements set by indi-

vidual States are routinely ignored.

To take just one example among many, in 2018, 31 out of South Carolina's 46 counties, that is two-thirds of South Carolina's counties, had more voters per machine than allowed under State law. State regulation is not a sufficient bulwark against the underresourcing of polling places in the States. Federal oversight, such as that promised by the VRAA and the For the People Act, is needed.

Restoring the 1965 Voting Rights Act to its full power is more important today than at any point in the past 8 years. So far in 2021, 48 States have introduced laws making it more difficult to vote. These have become law in 14 States so far, and the legislative session is not yet over. Those introduced and passed in States like Georgia, Florida, and Texas would make early and mail voting less accessible, pushing more voters into polling places on election day, further straining resources and leading to longer lines.

In short, the preclearance condition of the VRA worked. It protected voters of color from discriminatory voting laws in parts of the country with discriminatory histories, and it can do so once again. Voters of color today face steeper costs in today's elections, costs paid in lost time and lost wages due to unfairly resourced

polling places.

I urge Congress to pass the John Lewis Voting Rights Advancement Act.

Thank you.

[The statement of Mr. Morris follows:]



Testimony of

Kevin Morris

Researcher at the Brennan Center for Justice at NYU School of Law¹

Hearing on Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot

Before the Committee on House Administration, Subcommittee on Elections In the United States House of Representatives

June 11, 2021

Thank you for the opportunity to testify in support of strengthening the Voting Rights Act ("VRA"), a law that has played a critical role in safeguarding American democracy against pernicious, persistent threats of discrimination in the election system. The Brennan Center for Justice at NYU School of Law strongly supports this Committee's efforts to restore and revitalize the VRA, through the John Lewis Voting Rights Advancement Act ("VRAA").

In the nearly 8 years since the coverage formula of the VRA was struck down in the Shelby County v. Holder decision, ² access to the ballot box has become more challenging for racial and ethnic minorities. The Shelby County decision opened the door for many discriminatory practices, such as strict voter ID laws. This testimony focuses in particular on three ways in which polling place issues increase the cost of casting a ballot for racial and ethnic minorities.

Voters of color face much longer lines than white voters across the country. Counties
with fewer electoral resources per voter—including fewer polling places—have seen
the longest lines. These counties with the fewest resources also grew less white over

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¹ The Brennan Center for Justice at New York University School of Law is a nonpartisan public policy and law institute that works to reform, revitalize, and defend our country's system of democracy and justice. I am a quantitative researcher in the Voting Rights and Elections Program. I have authored numerous nationally recognized reports and articles on voting rights and elections. My work has been featured in numerous media outlets across the country, including the New York Times, the Washington Post, and the Los Angeles Times. My research has been published in such academic journals as the American Political Science Association's flagship American Political Science Review. My testimony does not purport to convey the views, if any, of the New York University School of Law

² Shelby County v. Holder, 570 U.S. 529, 556-57 (2013).

- approximately the last decade. Trends in population growth indicate that resource allocation will exacerbate—not mitigate—these wait time disparities. Worse still, state laws are ineffective at ensuring minimum resource requirements.
- 2. Polling place closures are especially harmful to turnout, and especially the turnout of racial and ethnic minorities. This was made clear during the Covid-19 pandemic, when Milwaukee, Wisconsin, closed the overwhelming majority of their polling places for the 2020 presidential primary. This caused a major decline in turnout—a decline that was even larger for Black voters.⁴
- 3. These problems have likely been compounded by changes in voter purge practices attributable to the Shelby County decision. Following the invalidation of the VRA's coverage formula, formerly covered jurisdictions began purging their voters at significantly higher rates. Within these jurisdictions, increased purge rates were associated with higher numbers of provisional ballots⁵—causing potential slowdowns for all voters in a given polling place, even if they were not personally removed due to a wrongful purge.⁶

The need for the VRAA has only increased in the aftermath of the 2020 election. The current atmosphere makes clear just how urgent the task of restoring the VRA is. In recent months, legislatures across the country have moved to enact the most sweeping restrictions on voting rights since Reconstruction ended. The result then was a century of Jim Crow rule. Now more than ever, a strong Voting Rights Act is necessary.

Disparities in Election Day Experiences

Over the past decade, scholars have consistently noted that racial minorities wait longer to cast their ballots on election day than white voters. The Brennan Center showed that voters of color waited in longer lines in 2018 by leveraging self-reported wait time in national survey data, 9 and these disparities have also been demonstrated in past elections using other surveys, 10

³ Hannah Klain et al., Waiting to Vote: Racial Disparities in Election Day Experiences, Brennan Center for Justice (2020), 10-11, https://www.brennancenter.org/sites/default/files/2020-06/6_02_WaitingtoVote_FINAL.pdf.

^{(2020), 10-11, &}lt;a href="https://www.brennancenter.org/sites/default/files/2020-06/6">https://www.brennancenter.org/sites/default/files/2020-06/6 02 Waitingto Vote FINAL.pdf. 4 Kevin Morris and Peter Miller, "Voting in a Pandemic: COVID-19 and Primary Turnout in Milwaukee, Wisconsin," Urban Affairs Review, (April 2021); Kevin Morris, Did Consolidating Polling Places in Milwaukee Depress Turnout?, Brennan Center for Justice (2020), https://www.brennancenter.org/our-work/research-reports/did-consolidating-polling-places-milwaukee-depress-turnout.

⁵ Brater et al., Purges, 26-27.

⁶ Lawrence Norden, How to Fix Long Lines, Brennan Center for Justice, (2013),

https://www.brennancenter.org/sites/default/files/2019-08/Report How to Fix Long Lines.pdf.

⁷ Amy Gardner, Kate Rabinowitz, and Harry Stevens, "How GOP-Backed Voting Measures Could Create Hurdles for Tens of Millions of Voters," Washington Post, March 11, 2021,

https://www.washingtonpost.com/politics/interactive/2021/voting-restrictions-republicans-states/.

⁸ Alex Cohen and Wilfred U. Codrington III, The Promise and Pitfalls of the 15th Amendment Over 150 Years, Brennan Center for Justice (Feb. 3, 2020), https://www.brennancenter.org/our-work/analysis-opinion/promise-and-pitfalls-15th-amendment-over-150-years.

⁹ Klain et al., Waiting to Vote, 6.

¹⁰ Charles Stewart III, "Waiting to Vote in 2012," *Journal of Law and Politics* 28, no. 4 (Summer 2014): 457-58.

cell-phone data, 11 and administrative data, 12 These gaps cannot be explained solely by differences in income, age, or education, and these gaps are large: our report showed that in 2018, Black and Latino voters were more than one-and-a-half times as likely to wait 30 or more minutes as white voters. 13 Importantly, recent work indicates that the consequences of long lines are further-reaching than just inconvenience on Election Day: work from Stephen Pettigrew indicates that each hour spent waiting to vote reduces turnout in subsequent elections by around 1% and that non-white voters are seven times more likely to wait more than an hour to vote than white voters. 14

In our recent report, we demonstrated that across the country, how election administrators allocate resources on Election Day is significantly related to voters' experiences. 15 Using resource data collected by the U.S. Election Assistance Commission's Election Administration and Voting Survey and wait time data reported to the Cooperative Congressional Election Study, we demonstrated that jurisdictions with fewer resources per voter—including polling places, poll workers, and voting machines—saw longer lines on Election Day in 2018. Voters who lived in counties with the most overburdened polling places reported waiting, on average, more than twice as long as voters who lived in counties with the fewest voters per polling place—even after controlling for relevant sociodemographic characteristics. 16 Our study, which was national in scope, joined other studies that found that polling place resources are important determinants of wait times at lower geographic scales. 17 (I attach our report as Appendix A.)

Although voters of color continued to report longer wait times than white voters in 2018. they were not concentrated in counties with fewer polling places, poll workers, and voting machines per voter than white voters. 18 Equalizing the distribution of polling place resources, in other words, is insufficient to equalize voters' experience on Election Day. To ensure equitable Election Day experiences and end the excessive lines and wait times faced by minority voters, administrators need to distribute relatively more and higher-quality resources in neighborhoods of color. This dynamic plays out especially clearly when it comes to language assistance. Our

¹¹ M. Keith Chen et al., "Racial Disparities in Voting Wait Times: Evidence from Smartphone Data," Review of Economics and Statistics (Dec. 11, 2020): 1-27

¹² Christopher Famighetti, Amanda Melillo, and Myrna Pérez, Election Day Long Lines: Resource Allocation, Brennan Center for Justice (2014), 5-8, https://www.brennancenter.org/sites/default/files/2019-08/Report ElectionDayLongLines-ResourceAllocation.pdf; David Cottrell, Michael C. Herron, and Daniel A. Smith, "Voting Lines, Equal Treatment, and Early Voting Check-In Times in Florida," State Politics & Policy Quarterly (August 2020).

Klain et al., Waiting to Vote, 8.

¹⁴ Stephen Pettigrew, "The Downstream Consequences of Long Waits: How Lines at the Precinct Depress Future Turnout," Electoral Studies 71 (June 2021): 1-17.

¹⁵ Klain et al., Waiting to Vote, 10-13.

¹⁶ Klain et al., Waiting to Vote, 4, 17.

¹⁷ Michael C. Herron and Daniel A. Smith, "Precinct Resources and Voter Wait Times," Electoral Studies 42 (June

¹⁸ Using county-level measures can mask considerable differences in the quality of these resources: work from Barreto and colleagues shows that polling places in minority neighborhoods in Los Angeles in 2004 were lower quality, even if they were not fewer in number. Matt A. Barreto, Mara Cohen-Marks, and Nathan D. Woods, "Are All Precincts Created Equal?: The Prevalence of Low-Quality Precincts in Low-Income and Minority Communities," Political Research Quarterly 62, no. 3 (Sept. 2009): 445-58.

research at the Brennan Center indicates that counties that have significant and growing populations of voters whose first language is not English, but have not met the threshold to provide language assistance under Section 203 of the VRA, usually provide little-to-no language assistance, leaving some communities under-resourced. ¹⁹ Voters whose poll workers do not speak their language are at a serious disadvantage, even if their polling places are staffed with the same number of workers. Similarly, voters navigating ballots that are not written in their primary language may take longer to vote, leading to longer lines. Other research has demonstrated the importance of language access, showing that Section 203 coverage can increase turnout among citizens who speak little English. ²⁰

It is important to note that while voters of color in 2018 did not live in jurisdictions with fewer resources per voter, the population growth of voters of color over the preceding decade was concentrated in jurisdictions where there were fewer resources. A ten-percentage point decrease in the share of a jurisdiction that was non-Hispanic white between 2009 and 2018 was associated with more than 100 additional votes cast per polling place on Election Day in 2018. The implications of these findings are stark: although voters of color already face the longest lines, on average, they make up a growing share of the jurisdictions with the fewest electoral resources. We also found that there were fewer resources available per voter in 2018 in areas where real incomes shrank or grew slowly, relative to areas with faster income growth. For example, our study shows that counties where real incomes grew had 470 voters per polling place on Election Day in 2018, compared to 590 for counties where real incomes declined.

There are two reasons why federal action is needed. First, although more than half of all states have statutes detailing minimum standards for the number of polling places and over a dozen have statutes setting minimum numbers of voting machines or poll workers per voter, ²⁴ many states simply do not comply with their own laws. For example, my team uncovered evidence that more than 40% of precincts in Illinois had more registered voters assigned than allowed under state law, as did nearly a quarter of precincts in Michigan. According to our analysis, 31 out of South Carolina's 46 counties had more voters per machine than allowed under state law. ²⁵ Even where county-level averages are in compliance, individual polling places can miss the minimum standards. For instance, although the *average* number of voters per machine in Hall County, Georgia, in 2018 did not exceed state maximums, the maximum was exceeded in 1 out of 3 precincts in that county. In short, states are not effective enforcers of their own resource requirements, and voters of color consistently pay the price in long lines.

¹⁹ Klain et al., Waiting to Vote, 9

²⁰ Daniel J. Hopkins, "Translating into Votes: The Electoral Impacts of Spanish-Language Ballots," *American Journal of Political Science* 55, no. 4 (2011): 814–30.; Bernard L. Fraga and Julie Lee Merseth, "Examining the Causal Impact of the Voting Rights Act Language Minority Provisions," *Journal of Race, Ethnicity, and Politics* 1, no. 1 (March 2016): 31–59.

²¹ Klain et al., Waiting to Vote, 24.

²² Klain et al., Waiting to Vote, 10.

²³ Klain et al., Waiting to Vote, 10-11.

²⁴ Klain et al., Waiting to Vote, 11.

²⁵ Klain et al., Waiting to Vote, 11.

The second reason is that state legislatures seem poised to take steps to exacerbate the problem. Around the country, the 2021 legislative session has been marked by a number of bills that threaten to reduce the number of polling places and undermine how they are resourced. Bills have been enacted in Iowa and Montana that will result in reduced polling place availability; ²⁶ a bill that has already passed the House in Michigan would significantly increase the number of voters that can be assigned to one precinct; ²⁷ and bills have passed in Georgia and Iowa that reduce early voting days or complicate absentee voting, ²⁸ leading to more voters—and longer lines—on Election Day. Given our findings that fewer resources are linked with longer wait times, ²⁹ this pattern is deeply troubling. Moreover, the new Georgia law will make waiting in these lines more uncomfortable by outlawing the provision of snacks and water to those waiting in line at a polling place to cast their ballot. ³⁰

The implications of these bills are clear: voters of color in various states across the country will likely have to wait in even longer lines than in the past. A reinvigorated Voting Rights Act is necessary to address this issue.

Polling place consolidation also hurts turnout—especially for voters of color

Nowhere are the participatory consequences of election administration clearer than in the consolidation of polling places. There are few topics on which there is near-unanimity among political scientists, but the negative turnout effect of closing polling places is one of them. ³¹ Advocates have similarly made the point that some communities, such as those who are part of a minority language group or who have difficulty marking their own ballots, face unique costs from closed polling places. ³²

The lack of federal preclearance due to the *Shelby County* decision has allowed formerly covered jurisdictions to close polling places without federal oversight. And these jurisdictions did just that, closing some 1,700 polling places between 2012 and 2018, according to a study examining approximately 90% of the formerly covered jurisdictions.³³ Although some of these closures coincided with expansive voting reforms such as vote-center models, in which voters

²⁶ S.F. 413, 89th Gen. Assemb. (Iowa 2021); S.B. 196, 67th Leg. (Mont. 2021).

²⁷ H.B. 4134, 2021 Sess. (Mich. 2021).

²⁸ S.B. 202, 2021 Gen. Assemb. (Ga. 2021); S.F. 413, 89th Gen. Assemb. (Iowa 2021);

²⁹ Klain et al., Waiting to Vote, 10-13.

³⁰ S.B. 202, 2021 Gen. Assemb. (Ga. 2021).

³¹ Henry E. Brady and John E. McNulty, "Turning Out to Vote: The Costs of Finding and Getting to the Polling Place," *American Political Science Review* 105, no. 1 (2011): 115–34; Enrico Cantoni, "A Precinct Too Far: Turnout and Voting Costs," *American Economic Journal: Applied Economics* 12, no. 1 (January 2020): 61–85; Martha E. Kropf and David C. Kimball. *Helping America Vote: The Limits of Election Reform.* New York: Routledge, 2012); John McNulty, Conor Dowling, and Margaret Ariotti. "Driving Saints to Sin: How Increasing the Difficulty of Voting Dissuades Even the Most Motivated Voters," *Political Analysis* 17, no. 4 (2009): 435–55; Moshe Haspel, and H. Gibbs Knotts. "Location, Location: Precinct Placement and the Costs of Voting," *Journal of Politics* 67, no. 2 (2005): 560–73.

³² Raúl Macias and Myrna Pérez, "Voters Need Safe and Sanitary In-Person Voting Options," Brennan Center for Justice (March 31, 2020), https://www.brennancenter.org/our-work/research-reports/voters-need-safe-and-sanitary-person-voting-options.

person-voting-options.

33 "Democracy Diverted: Polling Place Closures and the Right to Vote," Leadership Conference on Civil and Human Rights, September 2019, http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf.

can cast a ballot at any polling place in their county, the closures should have been subject to federal oversight given these jurisdictions' checkered histories. Indeed, there is some evidence that these closures may have had racially disparate impacts: a survey by the Native American Voting Rights Coalition found that nearly 1 in 3 Native Americans in South Dakota—where 30% of Native Americans live in counties formerly covered under Section 4(b) of the VRA 34—said that the distance needed to travel to the polls affected their decision to cast a ballot. 35

As our peer-reviewed research demonstrates, the disenfranchising potential of polling place consolidation was thrown into stark relief in the 2020 presidential primary when Milwaukee, Wisconsin, shuttered the overwhelming majority of their polling places. The weeks leading up to the presidential primary in Wisconsin were marked by extreme confusion due to the coronavirus pandemic. Ultimately, the City of Milwaukee only opened 5 polling places for the presidential primary, compared with more than 180 on Election Day during recent elections, due to a severe shortage of poll workers. Local reporting made clear that the April 8 primary was plagued with very long lines in the city. These surrounding municipalities saw much less consolidation. These surrounding municipalities, it should be noted, are far less Black than Milwaukee City: according to 2019 5-year ACS estimates, Milwaukee City is 38% Black, compared with just 5.6% of the rest of Milwaukee County.

To test the effects of the polling place consolidation on turnout, we compared the 2020 primary turnout of Milwaukee voters to the 2020 primary turnout of voters who were demographically very similar and lived just outside of the City's border—in other words, who lived in a municipality with substantially fewer closed polling places. Despite a surge in absentee voting, these closures still reduced turnout by nearly 9 percentage points. ⁴⁰ As I show in Figure 1, this is not due to a different underlying propensity to vote: we selected suburban controls with identical turnout to the Milwaukee voters in the 2016 presidential and 2018 federal primaries. The turnout gap in 2020, we argue, is directly attributable to the consolidation of polling places. Even more troubling, the effects of these closures were larger for Black residents of

³⁴ U.S. Census Bureau. (2019). 2015-2019 American Community Survey 5-Year Estimates, Table B03002, retrieved using the Census Bureau API.

^{35 &}quot;Voting Barriers Encountered by Native Americans in Arizona, New Mexico, Nevada and South Dakota," The Native American Voting Rights Coalition, January 2018, https://www.narf.org/wordpress/wp-content/uploads/2018/01/2017NAVRCsurvey-results.pdf; Peter Dumphy, "The State of Native American Voting Rights," Brennan Center for Justice (March 13, 2019), https://www.brennancenter.org/our-work/analysis-onling/state-native-american-voting-rights

opinion/state-native-american-voting-rights.

36 Morris and Miller, "Voting in a Pandemic"; Morris, Did Consolidating Polling Places in Milwaukee Depress Turnout?

³⁷ Mary Spicuzza. "A Very Sad Situation for Voters': Milwaukeeans Brave Wait Times as Long as 2 1/2 Hours, Top Election Official Says," Milwaukee Journal Sentinel, April 7, 2020, https://www.jsonline.com/storv/news/politics/elections/2020/04/07/wisconsin-election-milwaukee-voters-brave-long-wait-lines-polls/2962228001/.

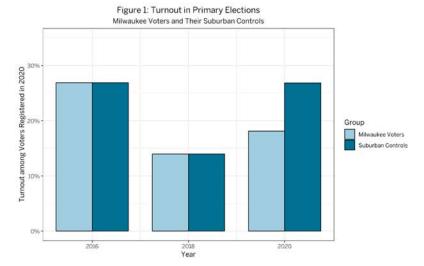
long-wait-lines-polls/2962228001/.

38 Morris and Miller, "Voting in a Pandemic."

³⁹ U.S. Census Bureau. (2019). 2015-2019 American Community Survey 5-Year Estimates, Table B03002, retrieved using the Census Bureau API.

⁴⁰ Morris and Miller, "Voting in a Pandemic."

Milwaukee. 41 This joins other research showing that polling place closures decrease turnout, 42 especially for voters of color. 43 (I attach our study as Appendix B.)



Polling place accessibility in neighborhoods of color has come under attack from legislatures around the country this year-especially in states that were formerly covered under Section 4(b) of the Voting Rights Act. Georgia ultimately abandoned a plan to shutter polling places on Sundays, a day disproportionately popular among Black voters, 44 and Texas legislators attempted to pass a bill that would ban Sunday morning voting. Although the Texas bill has been temporarily defeated, the Governor has promised a special session for the purpose of passing restrictive voting legislation. 45 Texas similarly floated another provision, as part of the same omnibus election bill, which would have resulted in the relocation of polling places in urban counties away from minority neighborhoods and into whiter ones. 46 These Texas proposals join

⁴¹ Morris and Miller, "Voting in a Pandemic."

⁴² Brady and McNulty, "Turning Out to Vote." ⁴³ Cantoni, "A Precinct Too Far."

⁴⁴ Kevin Morris. "Georgia's Proposed Voting Restrictions Will Harm Black Voters Most," Brennan Center for Justice, March 6, 2021, https://www.brennancenter.org/our-work/research-reports/georgias-proposed-votingrestrictions-will-harm-black-voters-most; Daniel Dale and Dianne Gallagher, "Fact check: What the new Georgia elections law actually does," CNN (March 31, 2021), https://www.cnn.com/2021/03/31/politics/fact-check-georgia-

voting-bill-law-elections-explained/index.html.

45 Nick Corasaniti, "Texas Democrats Stymie G.O.P. Voting Bill, for Now," New York Times (May 31, 2021), https://www.nytimes.com/2021/05/31/us/politics/texas-voting-bill.html.

46 Alexa Ura, Chris Essig, and Madison Dong, "Polling Places for Urban Voters of Color Would Be Cut under

Texas Senate's Version of Voting Bill Being Negotiated with House," The Texas Tribune, May 23, 2021, https://www.texastribune.org/2021/05/23/texas-voting-polling-restrictions/

policies that were in place for the 2020 election, when each county was limited to a single drop box, regardless of population. According to one academic study, this disproportionately increased travel times for voters of color in Harris and Travis Counties.⁴⁷

Voter Purges in the Wake of Shelby County

Increases in voter purges attributable to the Shelby County decision have also led to a deterioration in polling place quality in formerly covered jurisdictions. Before the coverage formula in Section 4(b) of the VRA was struck down, covered and uncovered jurisdictions removed—or "purged"—voters from their rolls at roughly comparable rates. For the two-year election cycles ending in 2014 and 2016, however-which includes the election cycle in which Shelby County was decided—there was a significant uptick in purge rates among jurisdictions formerly covered by the VRA's preclearance condition. 48 This gap in purge rates continued through the 2018 election cycle. 49 Put differently, this means that the end of the preclearance condition did not result in a one-time "catch up" of voter list maintenance, but rather ushered in a new era in which the voter list maintenance practices of formerly covered jurisdictions were substantially more aggressive than other demographically-similar jurisdictions that were not covered under the VRA. Figure 2 makes this trend clear: as late as 2018, the median purge rate in formerly covered jurisdictions was 40% higher than in jurisdictions not covered at the time of the Shelby County decision. Simply put, Shelby County allowed and effected increased voter purges in counties with demonstrated histories of racially discriminatory voting rules. (I attach these studies in Appendix C.)

⁴⁷ Alex Karner and Dana Rowangould, "Access to Secure Ballot Drop-off Locations in Texas," *Findings* (May 2021), https://findingspress.org/article/24080-access-to-secure-ballot-drop-off-locations-in-texas.

⁴⁸ Brater et al., Purges, 3-4.

⁴⁹ Kevin Morris, Voter Purge Rates Remain High, Analysis Finds, Brennan Center for Justice (Aug. 21, 2019), https://www.brennancenter.org/our-work/analysis-opinion/voter-purge-rates-remain-high-analysis-finds.

Figure 2: Purge Rates, 2008 - 2018
Counties Covered and Not Covered by Section 5 of the Voting Rights Act

12.5%

7.5%

Shelby County
V. Holder Decided

2010

2012

2014

Year

Coverage Status Under Section 5 of the VRA - Covered Not Covered

Source: EAVS

Notes: Shows data for counties reporting in each period.
Each point corresponds to 2-year election cycle ending with that year's federal election.

While voter purges are problematic for the eligible citizens who are wrongly removed from the rolls and are often thus prevented from participating, their inaccurate removals also cause ripples in their communities. When voters who show up at their polling place are not on the rolls, poll workers may spend additional time trying to locate the voter's record, causing delays for others in line. Moreover, purged voters are often required to cast provisional ballots if the poll worker cannot confirm their eligibility to vote. Indeed, we found that among formerly covered jurisdictions, provisional ballot rates were higher where the purge rate was higher. Decause voters who cast provisional ballots can take twice as long to cast their ballot as traditional voters, these purges can create cascading delays for all voters in a given polling place.

The increased voter purge rates attributable to *Shelby County*, then, affect both the individuals incorrectly removed and their neighbors. It bears repeating that the jurisdictions that saw their purge rates increase after *Shelby County* were covered under Section 4(b) of the VRA because they had a history of discrimination in voting practices. While our national analysis found that *overall* purge rates increased in formerly covered jurisdictions, there is some evidence

⁵⁰ Brater et al., Purges.

⁵¹ Douglas M. Spencer and Zachary S. Markovits, "Long Lines at Polling Stations? Observations from an Election Day Field Study," *Election Law Journal: Rules, Politics, and Policy* 9, no. 1 (March 2010): 3–17; Norden, *How to Fix Long Lines*.

⁵² Norden, How to Fix Long Lines, 2.

of racialized voter purges at the individual level in specific jurisdictions. For example, in North Carolina, we found that voters of color were overrepresented among voters purged between September 2016 and May 2018 in 90 of the state's 100 counties.⁵³ (I attach this study in Appendix C.) Similarly, recent research by Huber et al. on voter purges in Wisconsin also finds that voters of color are particularly vulnerable to inaccurate removals.⁵⁴

Conclusion

The Voting Rights Act was dealt a severe blow in the Supreme Court's 2013 decision in Shelby County v. Holder. 55 For the past 8 years, racial and ethnic minorities have lacked the full protections of the Voting Rights Act meant to ensure that states make good on the central promise of our democracy: that each citizen be given a voice in her government. The nullification of the preclearance formula has left racial minorities unprotected even as they face longer lines on Election Day and are seeing their population swell in under-resourced counties; it has allowed election administrators to unilaterally consolidate polling places, resulting in turnout declines that are especially acute among communities of color; and increased purge rates in formerly covered jurisdictions have led to more time-consuming provisional ballots being cast. In the aftermath of the 2020 election, the stakes are higher than ever before, as hundreds of regressive bills have been introduced in statehouses across the country, with at least 22 bills enacted into law. 56 The John Lewis Voting Rights Advancement Act is needed to ensure that racial and ethnic minorities can participate fully and equally in the American democratic project.

Kevin Morris and Myrna Pérez, Florida, Georgia, North Carolina Still Purging Voters at High Rates, Brennan
 Center for Justice (October 1, 2018), https://www.brennancenter.org/our-work/analysis-opinion/florida-georgia-north-carolina-still-purging-voters-high-rates.
 Gregory A., Huber et al., "The Racial Burden of Voter List Maintenance Errors: Evidence from Wisconsin's

⁵⁴ Gregory A., Huber et al., "The Racial Burden of Voter List Maintenance Errors: Evidence from Wisconsin's Supplemental Movers Poll Books," *Science Advances* 7, no. 8 (February 17, 2021): 7-8.
⁵⁵ Shelby County, 570 U.S. at 556-57.

⁵⁶ Voting Laws Roundup: May 2021, Brennan Center for Justice (May 28, 2021), https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-may-2021.

Chairman Butterfield. Thank you, Mr. Morris.

And, at this time, the chair recognizes Ms. Marziani. And I hope I am pronouncing that correctly. If not, please excuse me. You are now recognized for five minutes.

STATEMENT OF MIMI MARZIANI

Ms. Marziani. Thank you and good morning. Chairman Butterfield. Good morning.

Ms. Marziani. Thank you, Representative Butterfield.

And to Ranking Member Steil and to the other members, I am Mimi Marziani. I am the president of the Texas Civil Rights Act,

and I am very honored to be with you today.

So I am here from Austin with a pretty urgent message. Since the Supreme Court's Shelby County decision, there have been a slew of voting law changes in Texas that have made it more difficult for Black and Latinex Texans to vote. Texas then, sadly, is a prime example of why Congress must act now to update and reinstate preclearance.

I have provided numerous examples of the racially discriminatory voting law changes that have occurred in Texas to this Committee previously in January 2019, to the Committee of the Judiciary in May 2019, to the Select Subcommittee on the Coronavirus in September 2020. And in the testimony submitted today, I attached those prior testimonies that also focused on a particularly troubling trend which you have heard from my fellow panelists. And that is that, in Texas, we have seen far more polling places closed than in any other State.

These closures have disparately impacted communities of color. Plus Representative Steil is right, these closures have occurred under Republican and Democrats, which underscores, in fact, the need for the type of Federal investigation and oversight that

preclearance used to provide.

On top of all of that, if not for brave pro-voting-rights lawmakers breaking quorum before our regular legislative ended on May 31 of this year, Texas would have a new law further restricting access. The fight is far from over. Texas Governor Greg Abbott has promised to call a special session this summer to try to again pass this complex omnibus law in S.B. 7.

S.B. 7 has included provisions that, among other devices, would restrict early voting hours, prohibit polling places from offering popular drive-through voting where voters can cast a ballot from their car and reallocate polling places using a racially discriminatory formula. Even though S.B. 7's provisions are facially neutral, all of the evidence shows that S.B. 7 would, in fact, disparately im-

pact voters of color.

So, first, S.B. 7 would have mandated that voting take place no earlier than 6 a.m. and no later than 9 p.m., and this appears to be a direct response to extended-hour initiatives implemented across Texas in recent years in a variety of counties, and particularly in Harris County, where 24-hour voting locations were set up in 2020. These were aimed at voters who are shift workers and can't cast their voters during regular business hours.

A lawyer's analysis found that extended hour voting in Harris County in 2020 was disproportionately used by people of color, even most of the people who voted early in Harris County were White. Moreover, S.B. 7 prohibited voting from taking place before 1 p.m. on Sundays, which would severely hamstring, if not eliminate, Souls to the Polls, which is a long-standing tradition in which Black faith leaders encourage churchgoers to cast their ballots after services.

Plus, in 2020, health concerns about COVID and Texas' refusal to expand voting by mail pushed innovation by local officials to make in-person voting safer. I think what was popular, arguably, was drive-through voting in Harris County: which was used by approximately 127,000 voters, the major of whom are voters of color. And despite the immense popularity of that, S.B. 7 now seeks to

permanently end this innovation.

Finally, an earlier version of S.B. 7, as originally passed by the Texas House, included a provision that would have required Texas counties with 1 million or more people, which is all of our most racially diverse counties, to distribute polling places based on the share of registered voters in each State House district. I know that sounds complicated, but the effects were really clear. Polling places would be pulled away from communities of color. That is because these communities have lower registration rates, which is because of historical racism.

In fact, a study by the Texas Tribune found that of the 13 State House districts in Harris County that would lose polling sites as a result, all but one are majority White; And this is exactly the type of device that the Voting Rights Act was implemented to pro-

tect against.

One last thing. So, for nearly five decades, there was something close to a bipartisan consensus in Congress that States with a long history of voting discrimination, like Texas, should be subject to robust Federal oversight.

I am going to go ahead and quote Ronald Reagan when he authorized the Voting Rights Act in 1982. He said: The right to vote is the crown jewel of American liberties, and we will not see its luster diminished.

Voting rights for people of color in Texas have been badly tarnished, but I urge all members of this Committee to act now to restore them.

[The statement of Ms. Marziani follows:]

Testimony Submitted by Mimi M.D. Marziani, Esq., President of the Texas Civil Rights Project to the



U.S. House of Representatives, Committee on House Administration, Subcommittee on Elections *on*

The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot

June 11, 2021

I. Introduction

It is a great honor to testify before this body, the Committee on House Administration's Subcommittee on Elections, in the U.S. House of Representatives. For my testimony, I draw heavily from my work as President of the Texas Civil Rights Project (TCRP), and appear on behalf of that organization. ¹ I also bring my experience as Chairwoman of the Texas State Advisory Committee to the U.S. Commission on Civil Rights, ² as an adjunct professor of "Election Law and Policy" at the University of Texas School of Law since 2015, and from roughly a dozen years working to advance voting rights and election reform as a civil rights attorney. ³

In May 2019, I testified before a separate U.S. House committee concerning a range of voting law changes in Texas that have harmed voters of color and voters who speak a language other than English since the U.S. Supreme Court's 2013 decision in *Shelby County v. Holder* rendered Section 5 of the Voting Rights Act inoperable.⁴ This testimony builds upon my prior remarks, but is more narrowly focused on post-*Shelby* voting law changes that have reduced voting locations or cut back upon voting hours in Texas—and highlights recently proposed legislation in the Texas legislature that threatens to double-down on such devices in 2022.

Before 2013, states with a history of racial discrimination in voting, like Texas, had to seek preclearance from the federal government before changing any voting law or policy. Importantly, Section 5 placed the burden of proof on the *state* to demonstrate that the proposed change would not negatively impact electoral participation of people of color or persons for whom English is a second language.⁵ Moreover, it created a *de facto* notice

¹ We are Texas lawyers for Texas communities, serving the rising movement for equality and justice in our state. Our Voting Rights Program tackles the systemic issues that suppress democratic participation in Texas—from voter registration to the moment when an individual casts their ballot. Learn more at https://www.texascivilrightsproject.org. I am deeply grateful for our entire team's tireless, passionate work, particularly given the heightened importance of our voting rights efforts in last year's presidential election and during the 2021 legislative session. Special thanks to two TCRP summer law clerks, Alina Tulloch (a rising 3L at NYU School of Law) and Ryan Brown (a rising 2L at UT School of Law), for their mighty contributions to this written testimony.

² Our committee conducted a study of voting rights in Texas in 2018, including an all-day public hearing in Houston in March 2018. I concluded my term as chairwoman in March 2021.

³ My curriculum vitae is attached as Appendix A.

⁴ My May 2019 testimony is attached as Appendix B.

⁵ See, e.g., Texas v. Holder, 888 F. Supp. 2d 113, 143—44 (D.D.C. 2012), vacated and remanded, 570 U.S. 928 (2013) ("To sum everything up: section 5 prohibits covered states from implementing voting laws that will have a retrogressive effect on racial minorities...Texas, seeking to implement its voter ID law, bears the burden of proof and must therefore show that SB 14 lacks retrogressive effect...But as we have found, everything Texas has submitted as affirmative evidence is unpersuasive, invalid, or both. Moreover, uncontested record

requirement for election law changes, preventing (for instance) last-minute shifts in polling place locations or eleventh hour polling place closures.

As described below, governmental entities in Texas at both the state and local levels have reduced access to polling places in recent years, particularly through reducing the quantity of locations. Now, inexplicably following an election with the largest turnout in a generation, 6 the Texas legislature is targeting some of the innovations that bolstered participation—and that were particularly popular with voters of colors—by threatening both to dramatically decrease both the number of polling places and to hamstring the ability of local election officials to match polling place operations and hours to local needs.

Without preclearance, questions remain about the full impact of the changes to polling place quantities, locations and hours that are described herein. We do know that reducing access, whether through limiting locations or hours, has real-world implications for voters. All of us make a cost-benefit analysis before we vote, and the heavier the burden, the less likely we are to cast a ballot.⁷

Moreover, fewer polling places is one driver of long lines, a symptom of polling place inefficiencies that is compounded by other devices that make voting more onerous and time-consuming, such as Texas' strict photo identification law (the same one originally struck down under Section 5) and our 2019 elimination of straight-ticket voting.⁸ In the 2020 March Primary, TCRP's election protection program found that "at least 122 voters in eleven counties reported long lines at polling locations ranging from twenty minutes to five

evidence conclusively shows that the implicit costs of obtaining SB 14—qualifying ID will fall most heavily on the poor and that a disproportionately high percentage of African Americans and Hispanics in Texas live in poverty. We therefore conclude that SB 14 is likely to lead to "retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise"...)

⁶ See William H. Frey, Turnout in 2020 Election Spiked Among Both Democrtic and Republican Voting Groups, New Census Data Shows, Brookings (2021) (finding that voter turnout in the 2020 election was the highest in a presidential election since 1992), available at https://www.brookings.edu/research/turnout-in-2020-spiked-among-both-democratic-and-republican-voting-groups-new-census-data-shows/.

⁷ See Adam Bonica & Michael McFaul, Want Americans to Vote? Give Them the Day Off, Washington Post (Oct. 10, 2018, 3:42 pm), https://www.washingtonpost.com/opinions/want-americans-to-vote-give-them-the-day-off/2018/10/10/5bde4b1a-ccae-11e8-920f-dd52e1ae4570_story.html (reporting, "Voter tumout in the United States is among the lowest in the world ... Finding time to vote during a workday imposes a significant burden that falls disproportionately on workers and students[.]").

⁸ As described in my May 2019 testimony, this time-saving option was favored by Black and Latinx voters, who were significantly more likely to use this mechanism than white voters to quickly fill out their ballots. Straight ticket voting impacts how quickly voters can move through their ballot, especially in places like Harris County, home to Houston, where ballots are famously long.

hours." Press reports indicated wait times as high as seven hours, "particularly in communities of color and on college campuses." And, the individual stories we hear are heart-breaking. In March 2020 alone, we heard from a woman with disabilities in Travis County who physically could not wait in line and was disenfranchised; elderly voters in Harris County nearly fainting in the hot sun; a mother and son waiting for over five hours to cast their ballots. Nationally, communities of color regularly wait nearly twice as long to vote as white voters, 2 and in Texas, too, long lines disparately impact Black and Latinx Texans.

In short, history and current data confirm that voters of Texas are not evenly affected by the State's detrimental changes to polling place locations, operations and hours. Instead, Black and Latinx Texans will suffer a heavier burden, as they have time and again.

II. Overview of Polling Place Shortages, Reductions and Closures, 2014-2020

Numerous sources have confirmed significant reductions in the number of polling locations in Texas in recent years—far more than any other state. The sheer number of poll closures warrants a fulsome governmental investigation into its impacts—and, indeed, prior to *Shelby County* every one of these closures would have been subject to federal preclearance and, thus, government evaluation and justification. Now, there's a massive void, as state law does not require counties to assess or explain the impact of poll closures before or after they have gone into effect.

Without preclearance forcing the State and counties to evaluate and justify the community effects of these closures, it can be hard to ascertain a full picture of their impact. But, after conducting its own investigation, *The Guardian* concluded in March 2020 that "the places where the [B]lack and Latinx population is growing by the largest numbers have experienced

⁹ Louis Bedford & Faith Castillo, Tex. CIV. RTS. PROJECT, A TEXAS-SIZED DISASTER: LESSONS FROM THE PRIMARY ELECTION TO CARRY INTO NOVEMBER, at 6 (2020), available at https://txcivilrights.org/wp-content/uploads/2020/09/EP-Report-2020.pdf.

¹⁰ Id. 11 Id

¹² See Hannah Klain et al., BRENNAN CTR. FOR JUST., WAITING TO VOTE: RACIAL DISPARITIES IN ELECTION DAY EXPERIENCES 8 (2020), available at

https://www.brennancenter.org/sites/default/files/2020-06/6_02_WaitingtoVote_FINAL.pdf (finding that Black and Latinx voters waited, on average, about 45% longer white voters to vote).

¹³ See Todd J. Gillman et al., No One Should Wait Six Hours to Vote, But in Texas, Thousands Did on Super Tuesday, DALLAS MORNING NEWS (Mar. 4, 2020, 6:42 PM),

https://www.dallasnews.com/news/politics/2020/03/05/no-one-should-wait-six-hours-to-vote-but-in-texas-thousands-did-on-super-tuesday/.

the vast majority of the state's poll site closures." ¹⁴ And that conclusion matches the best available evidence, summarized below, which strongly suggests that many of these polling place closures have disparately and negatively impacted communities of color.

To start, testimony before the Texas State Advisory Committee to the U.S. Commission on Civil Rights in 2018, corroborated by policy experts, confirmed that hundreds of polling places were closed before the 2016 presidential election, significantly more in both raw number and percentage than any other state. ¹⁵ One particularly egregious example: Galveston closed 16% of its polling locations in 2016, according to a plan that had been initially rejected by the Department of Justice because it discriminated against Black and brown voters. ¹⁶

Then, in a 2019 report, the Leadership Conference Education Fund found that, between 2014 and 2018, Texas closed 750 polling locations—more than any other state in the country and more than twice the number of closures in Arizona, the state with the second highest number of closed polls. During that same period, fourteen Texas counties closed 50% or more of their polls. Six of the counties with the greatest number of poll closures in the nation between 2014 and 2018 were in Texas. Three Texas counties closed between 75% and 80% of their total polling sites, ranking among the ten counties with the highest percentage of poll closures in the country. 17

To be sure, a meaningful portion of these poll closures seem to be the result of efforts to centralize voting. Texas has a Countywide Polling Place Program¹⁸ that allows counties to convert to a vote center model where voters can cast their ballot at any location in the county on Election Day, rather than simply at a location in their precinct. According to the Leadership Conference, two-thirds of the poll closures in Texas between 2014 and 2018 are attributable to shifts toward the vote center model.¹⁹

¹⁴ Richard Salame, Texas Closes Hundreds of Polling Sites, Making It Harder for Minorities to Vote, THE GUARDIAN, (Mar. 2, 2020), https://www.theguardian.com/us-news/2020/mar/02/texas-polling-sitesclosures-voting.

¹⁵ MEMORANDUM FROM THE TEX. ADVISORY COMM. TO THE U.S. COMMC'N. ON CIV. RTS. 9 (May 30, 2018), available at https://www.usccr.gov/pubs/2018/07-23-TX-Voting-Rights.pdf.

¹⁶ Scott Simpson, THE GREAT POLL CLOSURE, LEADERSHIP CONF. EDUC. FUND 11 (2016), available at http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf.

¹⁷ Leadership Conf. Educ. Fund, DEMOCRACY DIVERTED: POLLING PLACE CLOSURES AND THE RIGHT TO VOTE (2019), available at http://civibrightsdocs.info/pdf/reports/Democracy-Diverted.pdf.

¹⁸ Tex. Elec. Code § 43.007.

¹⁹ Leadership Conf. Educ. Fund, supra, at 24.

Done correctly, vote centers increase efficiency in election administration, ensure that no voters are disenfranchised for voting outside of their precinct on Election Day, and can be more convenient for voters. TCRP is thus in favor of the vote center model as a general matter, provided that the shift does not include significant closures and incorporates community input on any changed locations. And, some counties have shifted to vote centers and worked hard to ensure equality of access, including large counties like Travis and Harris. But again, without preclearance or any other standards of review, it is nearly impossible to ascertain the efficiency of these measures or to identify any adverse racial impacts closures might have on a statewide scale.

Plus, from the Leadership Conference's research, we also know that conversion to vote centers alone does not fully explain the massive reduction in polling places in Texas following *Shelly*. Somervell, Loving, Stonewall and Fisher counties, for example, all closed between 60% and 80% of their polling places without converting to a vote center model. Each of these counties has a large Latinx population. Moreover, the Leadership Conference found that Texas counties that maintained precinct-style voting cut their polling locations by 250 sites in 2014 and 2018. That is a massive reduction that exceeds the total number of poll closures in the entire state of Georgia, the state with the third highest number of poll closures during those years.

Finally, the Leadership Conference's research on polling place closures dovetails with alarming research from TCRP on the lack of compliance with election law in maintaining sufficient numbers of polling places. Following the November 2018 General Election, TCRP conducted a comprehensive review of county compliance with select provisions of the state Election Code and the Voting Rights Act. We found that many countries—regardless of size or polling place model—were out of compliance with election laws. ²⁰ In 2018, Texas was unlawfully short of as many as 270 polling places in a total of thirty-three counties that contained 4 million registered voters collectively. ²¹

Particularly egregious offenders included Caldwell and Cooke counties, which at the time of our report, were required by law to provide 33% and 60% more polling places, respectively, and Denton County, which needed to add 60 polling sites. ²² Though they quickly pledged to address violations, McClennan and Tyler counties were found to lack sufficient voting

²⁰ Paul Flahive, Texas Counties 'Disenfranchised Voters' by Closing Too Many Polling Places, Say Advocates, TEX. PUB. RADIO (May 13, 2020, 10:26 AM), https://www.tpr.org/government-public-policy/2020-05-13/texas-counties-disenfranchised-voters-by-closing-too-many-polling-places-say-advocates.
21 17

²² Letter to Texas Secretary of State Ruth Hughs, at 9 (May 13, 2020), attached as Appendix C.

locations in communities with large populations of people of color (Waco and Tyler, respectively).²³

Disturbingly, some counties—and the Office of the Secretary of State—utterly ignored our calls for compliance, despite the racial disparities we identified. At least nine counties failed to respond sufficiently or at all to our notifications that they were violating important election standards.²⁴ And their inaction mirrors that of the Secretary of State, who is, by Texas law, appointed by the Governor to serve as the state's chief election official. Until last month, the Honorable Ruth Hughs served in this position (it is currently empty). We provided Secretary Hughs with extensive findings in May 2020 that have yet to be addressed by her office or by any other statewide elected official.

This inaction is particularly egregious given the realities of the world during the 2020 election. Despite recommendations from the Centers for Disease Control that the number of polling places in a state should be increased or maintained, to better allow for social distancing, ²⁵ despite Texas' dubious track record, and despite the stark racial disparities in COVID-19 infections in Texas, the State took an "it is what it is" approach, allowing each county to police itself. For instance, in a June 18, 2020 Election Advisory (No. 2020-19), the Secretary included a section about polling place siting, but gave no directions whatsoever as to the quantity of polling places. ²⁶ As of today's date, TCRP is not aware of any meaningful oversight provided by the State as counties set polling places last year for the general election, not even to ensure that counties complied with the bare minimum required by current law, and let alone to ensure that polling place decisions did not harm communities of color.

III. Imminent Threat of Additional, Harmful Polling Place Changes in 2021

In the 87th legislative session in Texas, which officially ended just weeks ago on May 31, 2021, a complex, omnibus elections bill—Senate Bill 7—threatened to disenfranchise millions of voters across the state, with evidence showing that voters of color would be disparately impacted. Various versions of the bill that advanced in the legislation process would have: restricted early voting hours, including on Sunday mornings; prohibited polling places from offering popular "drive-thru" voting; and reallocated polling places using a

²³ Id. at 5.

²⁴ See id. at 6-12.

Considerations for Election Polling Locations and Voters, Centers for Disease Control, https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html.
 Election Advisory No. 2020-19 to County Clerks/Elections Administrators and County Chairs, (June 18, 2020), available at https://www.sos.state.tx.us/elections/laws/advisory2020-19.shtml.

racially discriminatory formula. And these new restrictions would be layered on top of the multitude of laws that already make Texas the hardest place to vote in the country.²⁷

If not for brave pro-voting rights legislators breaking quorum to prevent a vote on this legislation before the regular legislative session expired, S.B. 7 would likely be the law of the land today. ²⁸ But, while S.B. 7 has been defeated for the moment, Texas Governor Greg Abbott has promised to call a special session to resurrect S.B. 7, at which many expect it to pass in some form.

The provisions of S.B. 7 described below are facially neutral. Just this week, however, Texas Lieutenant Governor Dan Patrick said explicitly that S.B. 7 was about "reining in one county—Harris County, in particular." ²⁹ Targeting Harris County, the largest and most diverse county in Texas where voters of color make up a high share of the electorate, raises significant questions about whether lawmakers had an unlawful intent. Preliminary analysis, done with publicly available data by our team at TCRP, indicates the disparate impact these provisions would have on communities of color. Accordingly and unfortunately, S.B. 7 is a prime example of the urgent need for renewed preclearance in Texas, to prevent this sort of retrogression of voting rights.

A. Attacks on Voting Hours

The final version of S.B. 7, as advanced by a joint conference committee and passed by the Texas Senate, mandated that voting must take place no earlier than 6am or later than 9pm.³⁰ This appears to be a direct response to extended-hour initiatives implemented during the 2020 election, particularly in Harris County where eight 24-hour early voting locations were set up to reach shift workers who otherwise would be unavailable to cast their ballots during regular hours.³¹

²⁷ How hard is it to vote in your state?, NIU NEWSROOM, https://newsroom.niu.edu/2020/10/13/how-hard-is-it-to-vote-in-vour-state/.

²⁸ Alexa Ura, Texas Democrats Abandon House Floor, Blocking Passage Of Voting Bill Before Final Deadline, THE TEXAS TRIBUNE (May 30, 2021), https://www.texastribune.org/2021/05/30/texas-voting-restrictions-house/.

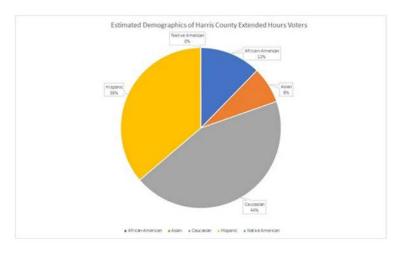
²⁹ Christian Flores, Lt. Gov. Patrick Talks Phelan, Dead Election Bill, and Paxton, KEYE (June 8, 2021), https://cbsaustin.com/news/local/lt-gov-patrick-talks-phelan-dead-election-bill-and-paxton. Lt. Gov. Patrick specifically cited Harris County's 24-hour voting and drive-thru voting sites, baselessly claiming that these policies were illegal. This should be viewed as a possible indication of the priorities for S.B. 7's proponents as we approach a likely inevitable special session on the bill.

³⁰ Tex. S.B. 7, 87th Leg., R.S. (2021) Conference Committee Report, Section 3.09,

https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0.

³¹ Juan A. Lozano, *Houston looks to boost turnout by offering 24-hour voting*, AP NEWS (2020), https://apnews.com/article/election-2020-politics-houston-voting-texas-

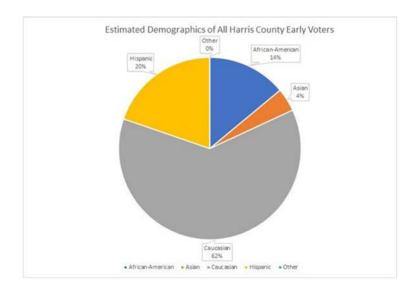
Moreover, with data from Harris County and using Targetsmart to model race and ethnicity, TCRP estimated the demographics of Harris County extended-hour voters in 2020, finding that they were disproportionately people of color even though most early-voting voters overall were white. ³² This preliminary analysis was distributed to lawmakers, included in testimony and heavily reported upon in the press, underscoring that lawmakers were, at the very least, aware of and nonetheless willing to pass legislation that would make voting more difficult for communities of color.



For comparison, here is a breakdown of all Harris County early voters.

³⁵¹f6e1c4820d8f2b2eb7468a725cce0; Lina Hidalgo, We Need Everyone If We're Going To Beat The Attack On Voting In Texas, The Washington Post (April 8, 2021), https://www.washingtonpost.com/opinions/we-need-everyone-if-were-going-to-beat-the-attack-on-voting-in-texas/2021/04/08/e3f20946-989f-11eb-a6d0-13d207aadb78_story.html.

³² Originally published at https://twitter.com/txcivilrights/status/1375869409919700997?s=21



The racial disparities are stark but not surprising. Permitting voting outside of regular work hours is essential for certain groups of voters who are disproportionately people of color, including working class people, people juggling multiple jobs, people with extensive caregiving responsibilities and those with unconventional work hours.³³

On top of that, S.B. 7 prohibited voting from taking place before 1pm on Sundays, which would severely hamstring—if not eliminate—"souls to the polls," a longstanding tradition in which Black church leaders encourage their congregants to cast their ballots immediately after services. It's unclear what purpose this provision could possibly serve other than limiting Black voters' participation in our democracy. (Long-time Texas Senator Royce West underscored the absurdity by noting that, due to a separate new law passed allowing an earlier sale of beer and wine on Sundays, "We're going to be able to buy beer at 10 o'clock in the morning, but we can't vote until one o'clock."³⁴)

³³ See, e.g., Liz Kennedy, Millions To The Polls: Early Voting, DEMOS (Feb. 18, 2014), https://www.demos.org/policy-briefs/millions-polls-early-voting#fn8.

³⁴ Nick Corasaniti, Texas Senate Passes One of the Nation's Strictest Voting Bills, THE NEW YORK TIMES (May 29, 2021), https://www.nytimes.com/2021/05/29/us/politics/texas-voting-bill.html.

Finally, as discussed above, even if individual voters are able to navigate shorter hours and get to the polls, limiting voting hours as proposed by S.B. 7 has a foreseeable effect of further lengthening voting lines, which will further disparately impact communities of color.

B. Attacks on Drive-Thru Voting

In 2020, health concerns about COVID-19 and a steadfast refusal by Texas to expand opportunities to vote by mail pushed innovation by local officials to make in-person voting safe.³⁵ Perhaps the most popular was drive-thru voting in Harris County, which allowed "any registered voter to cast their ballot without leaving the comfort of their vehicle," ³⁶ and was ultimately used by approximately 127,000 voters.³⁷ Despite drive-thru voting's immense popularity, especially among voters of color (as shown below), prominent Texas Republicans attacked drive-thru voting in 2020. Attacks included an aggressive lawsuit that sought not just to shut down drive-thru voting but, incredibly, to void all ballots cast in that manner after the fact.³⁸

S.B. 7 seeks to permanently end this innovation by disallowing polling places from being located "in a tent or similar temporary moveable structure or in a facility primarily designed for motor vehicles" and prohibiting voters from casting a vote "from inside a motor vehicle" unless the voter faces particular health challenges specified under the Texas Election Code. Again, this provision targets the most racially diverse county in Texas, raising serious questions about lawmakers' intent. Moreover, TCRP's analysis found that about 53% of the votes cast at the 10 drive-thru sites in Harris County during the early voting period were by Hispanic, Black, or Asian voters, while only 38% of all early votes cast during the election were by people in those three demographic groups. 40

³⁵ For further background, see testimony I gave to the Select Subcommittee on the Coronavirus Crisis in September 2020, attached as Appendix D.

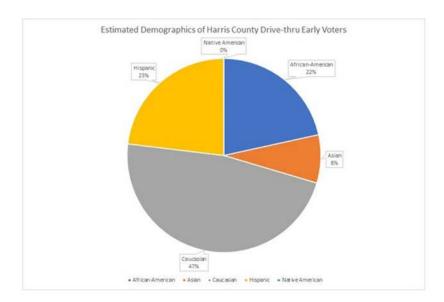
³⁶ Brandon Mulder, In Voting Debate, No Evidence That More People Of Color Don't Own Cars Than Do, Politifact, https://www.politifact.com/factchecks/2021/apr/23/dan-patrick/voting-debate-no-evidence-more-people-color-dont-o/. Drive-thru is distinct from curbside voting, which is allowed under the Texas Election Code for any Texas voters with qualifying health challenges Tex. Elec. Code Ann. § 64.009

⁵⁷ Ashley Lopez, Texas Republicans Look To Curb Local Efforts To Expand Voting Access, NPR (2021), https://www.npr.org/2021/03/26/981308277/texas-republicans-look-to-curb-local-efforts-to-expand-voting-access.

³⁸ Jolie McCullough, Nearly 127,000 Harris County Drive-Thru Votes Appear Safe After Federal Judge Rejects GOP-Led Texas Lawsuit, THE TEXAS TRIBUNE (Nov. 2, 2020), https://www.texastribune.org/2020/11/02/texasdrive-thru-votes-harris-county/.

³⁹ Tex. S.B. 7, 87th Leg., R.S. (2021) Conference Committee Report, Section 3.03; Section 3.12; Section 3.13, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0.

⁴⁰ Originally published at https://twitter.com/TXCivilRights/status/137586941797271552; see also Brandon Mulder, In Voting Debate, No Evidence That More People Of Color Don't Own Cars Than Do, POLITIFACT,



That means voters of color utilized the drive-thru voting sites at significantly higher rates than white voters and that, in turn, disallowing drive-thru voting would have a disproportionate impact on voters of color. Again, lawmakers were given this data on disparate impact; TCRP's analysis was also included in testimony and featured in multiple media reports, but lawmakers continued to support these provisions notwithstanding their discriminatory effect.

C. Attempts to Redistribute Polling Places

Finally, an earlier version of S.B. 7, as originally passed by the Texas Senate, included a provision that would have reallocated polling places in large counties away from communities of color for the benefit of whiter, richer communities.

Specifically, under Section 3.06 of the Senate's version of S.B. 7, Texas counties with one million or more people would be required to distribute polling places based on the share of

https://www.politifact.com/factchecks/2021/apr/23/dan-patrick/voting-debate-no-evidence-more-people-color-dont-o/.

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registered voters in each state House district within the county. 41 Similar to the provisions discussed above, this specifically targets counties that are extremely racially diverse: Harris, Dallas, Tarrant, Bexar, Travis, and Collin counties. The effect would be to redistribute polling locations away from areas with higher shares of voters of color because those same communities have disparately lower registration rates—which is due to historical racism. An analysis by the *Texas Tribune*, copied below, demonstrates that 13 of the 24 districts within Harris County would lose polling locations under this provision. All 13 of those districts are currently held by Democrats, and all but one of those 13 districts has a majority non-white voting-age population. 42

District	Party	Change in polling places	Registered voter population	White voting-age population
141	D	-11	84,010	10.6%
146	D	-8	93,243	23.6%
148	D	-8	93,517	41.6%
142	D	-7	95,301	18.1%
147	D	-7	117,099	29.7%
140	D	-6	66,250	12.0%
143	D	-6	71,313	17.6%
144	D	-6	63,477	26.0%
137	D	-5	57,295	28.2%
145	D	-4	76,258	22.1%
134	D	-3	143,792	70.5%
131	D	-1	91,910	11.7%
139	D	-1	102,879	17.8%
128	R	0	110,286	58.2%
129	R	0	122,179	56.4%
138	R	+2	96,134	45.7%
126	R	+3	109,996	47.6%
149	D	+4	89,561	20.9%
133	R	+6	120,436	65.4%
135	D	+9	110,471	41.7%
127	R	+10	129,383	59.0%
150	R	+10	140,662	56.9%
130	R	+11	143,274	64.1%
132	R	+18	146,732	45.9%

⁴¹ Tex. S.B. 7, 87th Leg., R.S. (2021) Engrossed version, Section 3.06,

https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00007E.pdf#navpanes=0.

⁴² Madison Dong, Chris Essig & Alexa Ura, Polling Places For Urban Voters of Color Would Be Cut Under Texas Senate's Version of Voting Bill Being Negotiated With House, THE TEXAS TRIBUNE (May 23, 2021), https://www.texastribune.org/2021/05/23/texas-voting-polling-restrictions/.

Redistributing polling locations like this would dramatically undercut access for communities of color while bolstering access for white communities. This is exactly the kind of device the Voting Rights Act was originally implemented to protect against. There is little doubt that, prior to *Shelby*, preclearance would have prevented voters of color from being deliberately disenfranchised in this manner.

Again, Governor Abbott and prominent Republican leaders have vowed to pass a version of S.B. 7 in a special legislative session later this year. Unfortunately, without federal oversight, Texas lawmakers seem poised to enact voting law changes that will reduce access for people of color. Texas, sadly, is a prime and urgent example of why Congress must act now to update and reinstate preclearance under the Voting Rights Act.

I am happy to answer any questions the Subcommittee might have or to provide additional information upon request. Once more, thank you for the honor of testifying today.

Respectfully submitted by:

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Chairman Butterfield. Thank you very much for your testimony.

At this time, the chair will recognize Commissioner Palmer for five minutes.

STATEMENT OF DONALD PALMER

Mr. PALMER. Good morning, Chairman Butterfield, Ranking Member Steil, members of the Subcommittee on Elections.

I appreciate the opportunity to testify this morning regarding the 2020 elections and the work of the United States Election Assistance Commission. The EAC is a bipartisan agency focused on election administration and supporting election officials across the country. This vital mission includes offering guidance to improve polling place quality and accessibility for those who need additional assistance, ensuring that our voting systems can be used privately and independently by voters with disabilities, and that the procedures are in place to ensure equal access to all Americans.

Now, during the 2020 elections, the EAC responded immediately to the COVID-19 pandemic. We worked quickly in partnership with Federal, State partners to help local officials provide for the safety of their voters. These officials had to quickly adapt existing procedures to provide increased options for mail-in absentee voting, move to consolidated or larger polling places, and include other op-

tions or innovations in voting.

The increase in the EAC operational funding and State grant funding made this essential assistance possible. Many States utilized their CARES Act grants to enhance polling place access, in some States actually increasing the number of polling places, and to provide other options to vote during the pandemic: For example, adding voting centers or consolidated polling places, additional days and hours of early voting, additional recruitment and training of poll workers, and acquisition of additional equipment, all in an attempt to reduce potential congestion on election day and to keep the voters safe.

On behalf of my fellow commissioners and EAC personnel, we appreciate your support and the attention you paid to our mission. And the EAC aspires to do more. As a nonregulatory agency, our clearinghouse function is an important part of our mission to improve the administration of elections. We just recruited a team of subject-matter experts to join the agency, including three leading election administrators. They have a combined nearly 40 years of experience. We have also established a new position focused solely on the accessibility of voting systems, polling places, and every aspect of business of the EAC. This subject-matter expert is devoted to election administration and ensuring election officials have the resources they need to serve the voters.

We also are going to have a current—we are going to launch a new advisory board, comprised of local election officials from the 50 States to provide recommendations to the EAC, get down to the local level. Together EAC and State and local officials will continue to innovate and safeguard the integrity of our Nation's elections and instill public confidence in those elections.

Today's hearing addresses polling place quality and the potential barriers. While we have not received all election survey data, a re-

cent U.S. Vote Foundation Survey found that 89 percent of respondents indicated they were satisfied with the overall 2020 experience. This represents an improvement over 2016, at a rate of 27.6 percent. Moreover, voters who cast their ballots in person at a polling place reported over 92 percent satisfaction in 2020. Now, this is in line with other 2016 polling where 95 percent of respondents said that the performance of poll workers was excellent or very good. 2016 lines were shorter than they were in 2012, with 74 percent of voters waiting less than 10 minutes and 18 percent waiting between 10 and 30 minutes. That trend continues to move in the right direction.

This was a similar positive opinion of polling place management, where 82 percent of respondents were saying things were run well at the polling place and 16 percent said things were run okay. State and local officials deserve high praise for these efforts. Election officials are truly public servants who prioritize customer service to voters.

This is an impressive accomplishment, particularly with the COVID-19 burdens and last-minute changes that the pandemic necessitated.

As a former election official, I know that one size doesn't fit all for all voter needs. From polling place locations to the number of sites, local officials are responsible for allocating resources based on the varying needs of their jurisdictions and the procedures governing them. While local governing bodies provide the resources and budgets for elections, the election officials are constantly reviewing the polling places to meet accessibility standards, identify new polling places to better meet community needs, determine where polling places are in strategic locations, locations to facilitate the vote of population centers in a fair manner, and deciding whether locations are large enough to efficiently process voters. So the election officials require the ability to act minimally to meet the needs of a local population.

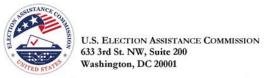
The pandemic highlighted the importance of this flexibility. As election officials made quick decisions to identify locations that allow voters to better maintain social distancing, consolidate locations to account for a decrease in the number of poll workers, other jurisdictions developed new procedures for a significant shift to larger scale mail-in ballots to be printed, mailed, and returned.

I want to conclude briefly by talking about the Help America Vote Act. The Help America Vote Act and other laws affirm the voting rights and election procedures that are essential to protecting our democracy. We take these mandates seriously to assist election officials, identify best practice, and serve voters. A critical mission includes enhancing access to polling places.

While the EAC's work supporting election officials help ensure a positive experience, we are already looking forward to 2022.

Thank you, Mr. Chairman, Ranking Member, members of the Subcommittee. Happy to answer any questions.

[The statement of Mr. Palmer follows:]



Committee on House Administration, Subcommittee on Elections
Voting in America: The Potential for Polling Place Quality and Restrictions on
Opportunities to Vote to Interfere with Free and Fair Access to the Ballot

Donald Palmer, Chairman United States Election Assistance Commission (EAC) June 11, 2021

Good morning Chairman Butterfield, Ranking Member Steil, and members of the Subcommittee on Elections. I appreciate the opportunity to testify before you this morning regarding the 2020 elections and the work of the United States Election Assistance Commission (EAC). Established in 2002 under the Help America Vote Act (HAVA), the EAC is a bipartisan agency focused on election administration and supporting election officials across the country. This vital mission includes offering guidance to improve polling place quality and accessibility for those who need additional assistance, ensuring that our voting systems are able to be used privately and independently by voters with disabilities, and that procedures are in place to ensure equal access to all voting Americans.

During the 2020 elections, the EAC responded immediately to complications caused by the COVID-19 pandemic. We worked quickly in partnership with our federal and state partners through the Election Infrastructure Government Coordinating Council and Sector Coordinating Council's Joint COVID Working Group to help local election officials provide for the safety of their voters as Americans headed to polling places in a pandemic. These officials often adapted existing procedures to provide increased options for mail and absentee voting and even drive by voting.

The recent increase in EAC operational funding as well as grants funding for distribution to states made this essential assistance possible. It is important to note that many states utilized grants to enhance polling place access and availability during the pandemic – vote centers and supersize polling places and additional days and hours of early voting to reduce the congestion on Election Day. On behalf of my fellow Commissioners and EAC personnel, we truly appreciate your support and the attention you pay to our mission, but the EAC aspires to do more.

This spring, the EAC created a separate Clearinghouse department and recruited a team of subject matter experts to join the agency. Through this effort we have onboarded three leading election administrators to join EAC staff. With nearly 40 years of combined elections experience, these award-winning professionals have pioneered election audits, implemented creative ways to educate voters, and garnered the respect of fellow election administrators nationwide. The EAC also established a new position focused solely on accessibility. This subject matter expert is devoted exclusively to ensuring election officials have the resources and

information they need to serve the millions of voters with disabilities in our country. This work will be done through providing targeted materials on expanding accessibility in all aspects of the voting process, trainings, and technical assistance to election officials and voting system manufacturers, launching an accessibility working group to ensure accessibility permeates the culture and work products of the EAC, and enhanced outreach to leaders in the disability community. The addition of the Clearinghouse division will allow our agency to further address the important topics that we are discussing today.

Additionally, we are currently launching a new advisory board comprised of two local election officials from all 50 states to provide advice and recommendations to the EAC in carrying out our mission under HAVA. Their feedback will prove critical in ensuring that the EAC is producing timely, responsive, and useful information to help election officials address the numerous challenges they face. Together, the EAC and state and local election officials will continue to innovate, safeguard the integrity of our nation's elections, and instill public confidence in election outcomes.

Today's hearing addresses polling place quality and potential barriers to voting access. While we have not yet received all data measurements from the election, a recent <u>U.S. Vote Foundation survey</u> found that 89% of respondents indicated they were satisfied with their overall 2020 voting experience. This represents an improvement over the 2016 satisfaction rate of 76%. Moreover, voters who cast their ballots in-person at a polling place, reported over 92% satisfaction in 2020. This is in line with polling from the 2016 Survey of the Performance of American Elections, where 95% of respondents said the performance of poll workers was "excellent" or "very good." In 2016, lines were shorter than they were in 2012, with 74% of voters waiting less than 10 minutes and 18% waiting between 10-30 minutes. That trend continues to move in the right direction. There was a similar positive opinion of polling place management with 82% of respondents saying things were "run well" at the polling place and 16% say things were run "ok."

Election officials are truly public servants who prioritize customer service to voters. This is an impressive accomplishment given the additional burdens created by COVID-19 and the numerous last-minute changes that the pandemic necessitated for election offices across the country. State and local election officials deserve high praise for their efforts.

In addition, the EAC recently released results from a comprehensive study on accessibility for voters with disabilities in the 2020 election, conducted in collaboration with Rutgers University. As evidenced in the study, many improvements were made in 2020 to assist voters with access needs. The number of persons with disabilities who encountered voting barriers at the polls is 18%, which represents a significant improvement from 30% in a similar 2012 study. Accessibility gaps do persist: voters with disabilities are still much more likely to encounter difficulties than those without disabilities. It is essential that the EAC continues to analyze these outcomes and offer potential solutions.

As a former state election official in both Virginia and Florida, I know one size does not fit all when it comes to addressing voters' needs. From polling place locations to the number of sites,

local officials are responsible for allocating resources based on the varying needs of their jurisdictions and the procedures governing them. While local governing bodies provide the resources and budgets for elections, local election officials are constantly reviewing their polling places to meet accessibility standards, identifying new polling places to better meet community needs, determining whether the polling places are in strategic locations to facilitate the vote of population centers, and deciding whether locations are large enough to efficiently process voters in high turnout elections. Election officials require the ability to act nimbly to meet the needs of their local population. The COVID-19 pandemic highlighted the importance of this flexibility, as election officials had to make quick decisions such as moving polling locations to larger facilities that allowed voters to better maintain social distancing or consolidating locations to account for a decrease in the number of poll workers. Other jurisdictions developed new procedures for a shift to larger scale of mail ballots to be printed, mailed, and returned.

Data from our research and survey efforts have made apparent the popularity and use of early voting options. The option can reduce wait lines on Election Day and offer voters flexibility on how and when they cast their ballot. Early voting may also provide the opportunity for election officials to select their best and most accessible voting locations for that time period, enabling voters with disabilities the opportunity to cast a ballot at a preferred location. At the EAC, we work to support these efforts and provide assistance where needed. In 2020, we expanded our best practices resources to assist election officials with early in-person voting and mail-in ballots to reduce polling place lines and crowding in response to the pandemic.

Without a sufficient number of well-trained poll workers, polling places, no matter how numerous and accessible, would be of no value. Facing an unprecedented poll worker recruitment challenge in 2020, the EAC established National Poll Worker Recruitment Day, galvanizing national recruitment efforts and helping to alleviate concerns about a significant shortage in poll workers. The EAC plans to continue this effort to assist election officials in adequately staffing polling locations for future elections.

Much of the EAC's current and future work will serve election officials in addressing polling place quality and accessibility in the leadup to 2022 and beyond. The EAC strives to bolster confidence in our democracy by meeting our mission of adopting Voluntary Voting System Guidelines, testing voting systems, accrediting testing laboratories, disseminating best practices, and serving as a national clearinghouse of information on election administration. We have hosted numerous programs over the past several years, including roundtable discussions and public forums on polling place quality and accessibility to further information sharing and learning among election officials. We will utilize the work of the new Clearinghouse division to expand these offerings.

In February, the EAC Commissioners unanimously voted to adopt the <u>Voluntary Voting System Guidelines (VVSG) 2.0</u>. The VVSG 2.0 improves accessibility, security, and interoperability of voting systems. By improving voting systems, we will ultimately improve polling place operations and the voter experience. VVSG 2.0 is a strengthened set of enhanced security requirements for voting machines. It constitutes a reasonable compromise that allows manufacturers to meet requirements, gives labs clear guidance to test and certify new voting

systems, and positions the EAC to pilot enhancements in the future. As the EAC grows and expands, we are also identifying crucial staffing needs to amplify our assistance regarding the implementation of these guidelines and the ability to keep them updated as the elections and technology landscape changes.

As a non-regulatory agency, the EAC's clearinghouse function is an important part of our mission to help officials improve the administration of elections. We are committed to assisting election officials with best practices that will help them assist voters. Our Clearinghouse Awards identify and promote successful polling place staffing and training efforts as well as improving accessibility for voters with disabilities. We are currently working to make information on these innovations more easily accessible as election officials consider innovations ahead of the 2022 elections.

The Help America Vote Act and other laws affirm the voting rights and elections procedures that are essential to protecting our nation's democracy. At the EAC, we take seriously our mandates to assist election officials, identify and develop best practices, and serve voters with disabilities. A critical piece of this mission includes enhancing access to polling places and improving accessibility. While the EAC's work supporting election officials helped ensure a positive experience in the 2020 elections for many voters, we are already expanding our work and are always looking for ways to enhance existing programs. We look forward to our continued work with Congress as we advance U.S. elections in 2022 and beyond.

Thank you, Mr. Chairman, ranking member, and members of the Subcommittee. I am happy to answer any questions you may have.

Chairman Butterfield. And we thank you for your testimony as well.

I think we will now move to move to member questions.

The gentleman from California who will have a birthday next week, Mr. Aguilar, you are recognized for five minutes.

Mr. AGUILAR. Thank you, Mr. Chairman. I appreciate that reminder.

I wanted to start with-

Chairman Butterfield. Wikipedia is pretty powerful.

Mr. AGUILAR. And occasionally correct.

Mr. Pettigrew, in your written testimony, you talked about, during the 2020 elections, voters experienced long lines at polling sites across the country. And while the previous election was affected by the pandemic, your written testimony and your verbal testimony here today talked about long lines that consistently remained a chronic problem for non-White voters. And just to underscore and make sure I heard you correctly, that voters who are not White are three times as likely to wait longer than 30 minutes and six times as likely to wait more than 60 minutes to cast their ballot. So I wanted to make sure I got that right.

But my first question to you is, how could a long line during one election discourage voters from participating in upcoming elections? And if you could share information from—specifically related to the data of your research to demonstrate this.

Mr. Pettigrew. Yes. Thanks for the question and happy early

birthday to you.

So, yes, I recently—actually this month it was finally in print. I published a paper on the question of how long lines affect future turnout. I mean, it is obvious that waiting hours and hours on election day or in early voting has a burden on the voters on that particular day, but one of the things I find in my research is that experiencing a long line in one election actually has a noticeable effect

on whether or not a voter participates 2 or 4 years later.

And, you know, the way that I come about that conclusion is by. you know, I was looking at a giant database of voters, and I had a good sense of data on how long the lines were in their neighborhoods, and I was able to essentially pair voters in a neighborhood with a short line against a voter in a neighborhood who—a voter who looked demographically and, you know, had a similar profile to a voter elsewhere in a place where lines were longer, and what we see is that the person who looks—you know, the two people who look similar, the one who is in the neighborhoods with the longer line was considerably less likely to turn out in subsequent elections.

And so, when you look at 2020 where we had, I think it was 16 million people waiting longer than the 30 minutes that was suggested by the Presidential Commission about 20 years ago, the implication is that that means hundreds of thousands of those people may—you know, they may not turn out in 2022, for example.

Mr. AGUILAR. What opportunities could alleviate long wait times at polling sites and ensure that voters have access to the voting box?

Mr. Pettigrew. Yes. I think there is—yes, I kind of think if I could wave a magic wand and try and solve this problem, I think there is three main things that I would want to do and want to see.

The first one is more access to mail voting. We saw—you know, turnout was very high in 2020 largely because of mail balloting, and so having more access to that just means there is fewer people showing up to vote and fewer possibilities for long lines to develop.

Another one, another thing I would change would be increasing opportunities to vote early or just having more hours of polls being open. You know, ideally you would have polls, you know, especially during the early voting period, open 7 days a week for the whole day, you know, maybe into the night to accommodate people who have difficult work schedules.

And then the last thing I think is just more Federal funding for local offices. I know—I think, you know, it was great to have an infusion of funding this year due to the pandemic, but, you know, a lot of these local offices haven't had a major influx of money in a long time. And so just giving them the resources to purchase more machines, do a better job of recruiting more poll workers, all of that is going to have a tremendous impact on how long voters wait and how satisfied voters are with the process.

Mr. AGUILAR. Thanks very much.

I wanted to shift briefly to Commissioner Palmer. Thanks for

your service with the EAC and to our country.

One of the troubling trends that we saw in the 2020 election was election officials, including EAC Commissioners, were subject to threats for their safety. Are you concerned that threats will discourage elections officials, staff, and poll workers from working fu-

ture elections and potentially impact voter access?

Mr. Palmer. Instinctively I am concerned, but I do think that most election officials, State and local, really have a dedication to their duties, and the dedication to the voters and to the process outweighs their fear of, you know, threats to them on a personal

We have been talking about this as a community, and one of the ways that we intend to address it is to do better training of what the options are dealing with local law enforcement and Federal resources and when it comes to how to take care of ourselves and to our people and to our election offices and just reassure our poll workers and election staff that we care about them and that there are procedures in place like other communities that might receive threats.

So I am concerned, but, again, I know the people really care about their job and about their commitment to the American voter, and they will continue to do their duties.

Mr. AGUILAR. I appreciate it.

Sorry, Mr. Chairman. I yield back.

Chairman Butterfield. That is fine. Thank you.

At this time, the chair recognizes the Ranking Member of the Subcommittee for 5 minutes.

Mr. Steil. Thank you very much, Mr. Chairman.

Mr. Morris, you studied the spring 2020 primary election in Milwaukee? Correct?

Mr. Morris. Yes, that is correct.

Mr. Steil. And in the city of Milwaukee, polling locations were reduced from 180 locations to five? Correct?

Mr. Morris. Yes, that is correct.

Mr. STEIL. And the city of Milwaukee is a little more than onethird African American? Correct?

Mr. MORRIS. I don't have that number right in front of me, but that sounds about right.

Mr. STEIL. Yes, a little over. I think it is closer to 38, but we will call it a little over a third for sake of ease of conversation.

And in contrast, the city of Madison, located about 70 miles to the west, 66 of 92 polling locations remained open, also a Democratically controlled city and less—but also less than 10 percent African American.

In your analysis, Milwaukee turnout was reduced by what percentage directly attributed to the consolidation of polling locations?

Mr. MORRIS. We estimate that it was about 9 percentage points, between 8 and 9 percentage points.

Mr. STEIL. And would that impact be even more significant for Black residents in Milwaukee?

Mr. Morris. Thank you for the question.

Yes, we found that it was slightly—the negative turnout effect was slightly larger for Black Milwaukee residents.

Mr. STEIL. I appreciate you looking into this.

I hope the Committee takes the opportunity to investigate this decision by a Democratically appointed election official in the city of Milwaukee, when one of the key elections in that spring primary election was a White incumbent Democratic male mayor running against an African-American woman.

As I said in my opening statement, I think it would surprise a lot of my colleagues that many of these closures were mandated by Democrats and Democratic appointees. And so, Mr. Morris, I appreciate you reviewing the Milwaukee primary election, your review and insight into that.

Let me switch gears over to you, Mr. Palmer, if I can. As part of the clearinghouse function, the EAC has engaged with State and local election officials to assist with election contingency planning. As we saw last year, election officials across the country were tested at the highest levels as a result of the COVID–19 pandemic and had to make emergency changes to their processes and procedures for administering both the primary and general election to ensure that voters could vote safely and securely.

My colleagues on the other side of the aisle are seeking to nationalize our country's election by implementing new unfunded Federal mandates that would impact election officials' ability to administer Federal elections.

Are there mandates that could limit an election official's ability in responding in an emergency? Can you comment on that?

Mr. Palmer. Well, the EAC isn't involved in that process. As a

Mr. Palmer. Well, the EAC isn't involved in that process. As a former lawyer at the Department of Justice, there used to be a process in place where which every change at the local level, county, township, locality would be submitted, and there was a process for emergency procedures. But this was a unique year with a lot of major strategic changes and minor changes at the local level just to make sure that the process was safe. And so, as you can see,

there were a lot of procedures that were made at the local level to get through the 2020 election.

Mr. STEIL. But if those changes—say, we are outside the emergency act, right, so there is an exclusion there you are identifying. If these were all being reviewed by the Department of Justice, what would have played out as people were trying to make adjustments to make sure that people could vote safely and securely during a very unique year?

Mr. Palmer. Well, there is a number of—just based on my experience, there is a number of analysts that are within the Department of Justice. Those requests would have to be submitted, and there would be a number of weeks or months for the Department of Justice to review those. Each locality would have to submit those changes to the Department voting section for preclearance.

Mr. STEIL. So it would have significantly altered the ability of local election officials to carry out elections during the pandemic if those changes were trying to be made?

Mr. Palmer. It would have definitely slowed down the process. Mr. Steil. I appreciate your feedback on that, Mr. Palmer.

And, Mr. Chairman, I now yield back.

Chairman Butterfield. The gentleman yields back. Thank you, Ranking Member.

At this time, the chair will recognize the gentlelady from New

Mexico, my friend Ms. Leger Fernandez.

Ms. Leger Fernandez. Good morning. And thank you so much, Chairman, for holding this hearing to examine how long lines, limited polls, and restricted voting alternatives negatively impact Americans' ability to vote.

I agree with Ronald Reagan that elections are indeed the crown jewel of our democracy. So, conversely, restricting our citizens' right to vote is simply un-American.

Dr. Pettigrew, you noted that long lines at polling places are due to systemic factors and, as recounted by Representative Aguilar, that wait times are substantially longer for non-White voters than White voters.

Do you agree with the recommendation that 30 minutes is a reasonable time to set as the goal for wait time at all polling places? And is that an amount of time that you have seen in White higher income precincts?

Mr. Pettigrew. Yes. And so that recommendation came out of the 2013 Presidential Commission on Election Administration, which, you know, they did extensive study of this specific question of how long is reasonable, and that is what they came to. And so that is what I have used in my research and other political scientists have used, and it seems like a pretty good standard.

In terms of your other question about income and its interplay with line length, there is a relationship there. It is definitely not as stark as the sort of relationship between race and voting, but it does seem that voters—let me make sure I get this right, that voters who live in higher income areas tend to have shorter lines than voters in lower income areas. But, again, you know, that relationship isn't nearly as strong as the race relationship. And, in fact, in some of my research, in evaluating the relationship with race,

I was taking into account things like income, and the effect of race was still quite large.

Ms. LEGER FERNANDEZ. Thank you.

Do you think that disparate wait times where we have this disparate wait times primarily on the fact of race, as you noticed, should be a factor, could be a factor to trigger preclearance under

a revised Voting Rights Act?

Mr. Pettigrew. That is a good question. Obviously, I haven't given a ton of thought to it, but it does seem like a reasonable—it does seem like a reasonable thing to have as a piece of the puzzle, especially given that, you know, as I talked about in my written testimony, what we find is that long lines tend to be a chronic problem in certain areas. It is not as if, you know, we have long lines popping up randomly across the country. And as an example, I talk about in my written testimony about how, you know, South Carolina is a State that over the last, I think since about 2008, they have consistently been one of the four or five States with the longest lines, and Vermont is the State on the other end of the spectrum where they are one of the States who have the shortest lines.

And so the fact that lines are a chronic problem suggests that there is some sort of systematic problem going on there. And, yes, perhaps, you know, using that as a measure of, you know, where preclearance needs to happen, it seems reasonable to me, yes.

Ms. LEGER FERNANDEZ. Thank you.

Mr. Morris, you testified that voters of color have to fight harder to vote than White voters. How does this statement address the claims made at the beginning of this hearing that the higher turnout in 2020 demonstrates that we don't have a voting access that needs fixing? And what is your response to these claims?

Mr. MORRIS. Thank you for that question.

I think it is important to recognize that it is a wonderful thing that we saw as high a turnout in the last year's elections as we did, but we still didn't have 100 percent turnout. There are still eligible citizens who did not participate, and I would imagine that some of those are individuals who the costs were too high to participate or the information was not clear enough or they had to travel too far to get to their polling place.

And so, I guess, my feeling is that high turnout doesn't necessarily mean that there are no problems anymore, and we know there is a growing literature in the political science world showing that some of these regressive voting laws do disproportionately impact voters of color. And so, you know, factors that increase turnout for everybody but might increase turnout more for White voters can still lead to discrepancies in the electorate.

Ms. LEGER FERNANDEZ. Thank you.

I did want to ask Ms. McCurdy regarding the 3.5 years to ban North Carolina's law for the—that she had in her written testimony that claimed it was the most restrictive voting law in North Carolina seen since the era of Jim Crow and what that told us about the need to reinstate section 5, but I see my time has expired, so perhaps that could be a written question that she responds to in writing.

And I yield back, Mr. Chair.

Chairman BUTTERFIELD. And I thank the gentlelady. Thank you very much.

At this time, the chair recognizes the Ranking Member of the full Committee, my friend, Mr. Davis.

Mr. DAVIS. Well, thank you. And thank you to my colleagues.

I will save the Committee on being able to watch my happy birthday song to Mr. Aguilar. I will just sing it to you in person

next week, Pete, if that is all right.

Hey, Mr. Morris, I am glad I followed you. I am glad to understand that you feel as though that people may not have been able to go vote, but you don't have the statistics to back a lot of that up. I certainly hoped we would get some of the experts at this hearing to do an analysis of why we didn't get to 100 percent voter turnout.

Is that something, Mr. Morris, that you are suggesting, that we

should have compulsory voting in the United States?

Mr. Morris. I am not suggesting that. I more was making the point that there is still room for us to do better. I appreciate the question, but-

Mr. DAVIS. There is a lot of room. There is a lot of room for us to do better. And, frankly, Mr. Morris, I don't think we get enough credit as the United States for what we did right the last two election cycles. How about you?

Mr. Morris. I think that it is a wonderful thing that we saw turnout as high as we did for the last two Federal elections, abso-

lutely.

Mr. DAVIS. And especially in the midst of a pandemic, when we had local election officials trying to use the limited resources they

had to give everybody access, and that is what is amazing.

I mean, we know what the end game of the Subcommittee hearing process is going to be. We are going to call for covered jurisdictions for every single jurisdiction in America. I certainly would be interested in whether or not this Subcommittee will put out a report that would advocate for compulsory voting, as we see in other countries.

But I appreciate your optimism on what happened in 2018 and 2020, and I appreciate your expression of your opinion and feelings as to what we can do to make it better, and certainly hope we can get some statistical analysis in the future to see what we can do to drive those last vestiges of folks out.

And what really stopped them from going to vote is, you know— I mean, I feel too that many of them may just not wanted to go vote. Maybe they didn't like the two candidates running. Who knows? That is what is great about America; it is their choice.

Hey, Mr. Palmer, glad to have you back, sir, as the chair of the EAC and also as a former elections administrator. What are some of the practical considerations that election officials must consider

right now in polling place management?

Mr. Palmer. Well, polling place management, I mean, when you talk about trying to reduce lines, I worked at the Bipartisan Policy Center on this, and I have really come to the conclusion that it is about an investment in technology, it is about more accurate voter rolls to make sure that we are allocating the voting equipment properly, that election officials at the local level have that information, and the local governing bodies have that information about where voters are, how many registered voters per precinct. That is one solution.

I also think that—I am always a believer in more training and transparency. And I think that if we have the resources and the time, I think localities need to invest in better training of their poll workers and being able to understand that other voters have—may have needs in language assistance or with disabilities, and so they are prepared for any event that takes place.

But like I said in my testimony, some of the statistics are really good when it comes to the opinion of voters for local election officials, that they are actually serving them, and that is very encour-

aging, from my perspective.

Mr. DAVIS. Do you think, Mr. Palmer, that when you look at—when you look at the States—a State's failure to conduct list maintenance as required under the National Voter Registration Act, do you think that could have an impact on long lines at polling places?

Mr. Palmer. Yeah, it absolutely does. The Presidential Commission on Election Administration a number of years ago, you know, it identified that when there is individuals that are no longer living in the jurisdiction, it really does provide a misallocation of resources. And so you may have two polling places in an area where a lot of the people may have left already or you have an increase in voters in one other area of the county. If your register rolls are inaccurate, it is very possible that you may not be as prepared as you think you are to efficiently handle voters that come to the polling place.

And so there is always going to be lines in a lot of these highturnout elections. Election officials want to make sure they have the most accurate data to efficiently process them, to make sure that there is enough equipment to process them through the voting process so the next voter in line can vote in a timely manner.

Mr. DAVIS. Right, right. I know I am running out of time. One last question. Has the EAC conducted any studies on polling location wait times, and will election administrators ever be able to get

rid of wait times for voting?

Mr. Palmer. I don't have a precise answer to that question. I know we did some work with the Bipartisan Policy Center on that, and I did a lot of work personally on identifying that. And so there has been a lot of people, including members of the panel, that have looked at this issue. And my general comment would be that it has really improved over the years. Over every election, there has been an improvement in that process going back all the way back to 2012.

Once we start targeting the issue using data, election officials have been sort of oriented to the problem, how to resolve the problem, and there has been a response to it. So, to me, it is one of those examples where there was a problem, we really put some of the best minds together to identify what sort of resources would help local election officials solve the issue, and we generally are improving in that area.

Mr. DAVIS. Great. I have no more time.

I yield back, Mr. Chair.

Chairman Butterfield. Thank you, Mr. Davis.

At this time, the chair will recognize the gentlelady from the Commonwealth of Pennsylvania, my friend, Mary Gay Scanlon. Take it away, please.

Ms. Scanlon. Thank you very much, Mr. Chairman, and thank you for convening this next in our series of hearings on voting

rights.

I would like to direct my questions to Dr. Pettigrew from—also from the Commonwealth of Pennsylvania, and my alma mater, the

University of Pennsylvania.

You know, Pennsylvania, in the last election cycle, had the interesting experience of having, for the first time, universal mail-in ballots available. Our Republican legislature had passed, also with support from Democrats, a law in October 2019, prepandemic, had passed a law that, for the first time, allowed no-excuses mail-in voting, and millions of Pennsylvanians took advantage of that during the pandemic.

Now, obviously that created some issues, because we hadn't had that access before and many of our counties were not quite prepared for that. But they performed—as Mr. Davis suggested—they performed admirably and with great integrity in meeting the chal-

lenges of the day.

Can you speak about how having access to early and no-excuses mail-in voting can help address issues of lines at polling places?

Mr. Pettigrew. Yeah, certainly. So—so yes. So as you noted, we had—you know, Pennsylvania was one of many States that pro-

vided voters with more opportunities to vote by mail.

What is interesting about 2020 is that, you know, we had a turnout that was higher than we have ever had before, but the number of people who voted in person nationwide was actually a lot smaller than it had been in any election since, I think, at least 2008. That

was as far back as I looked.

We had about—I think about 15 or 20 million people—fewer—15 or 20 fewer people voting in person in 2020 than in 2016, and a lot of that is attributable to mail voting. And what a lot of the research shows on this point is that—is that, you know, increasing access to mail voting will have a positive impact on lines because it just means there is fewer people showing up on election day or during the early period. And, similarly, having more opportunities to vote in person during the early voting period, it also has a good impact on lines.

Now, obviously, 2020, what we saw—so, as was noted by others, you know, we have had—there has been progress made on this issue of lines. Now, 2020 was—was a year where the lines actually were longer. A lot of the data we have suggests that lines were longer than they had been in the last 10 or 15 years, and I think a lot of that is probably attributable to things related to the pan-

demic in particular.

But, yeah, early voting—or more early voting, more mail voting, those are—those are great ways to limit capacity—limit the number of people showing up and limit the possibility for bottlenecks to create long lines and bad experiences for voters.

Ms. Scanlon. Thank you. Yes. And I know just, you know, having for years, you know, been working a full-time job and having kids to get to soccer games and everything on every end of the day,

it can be a struggle for folks to get to the polling place during the hours that are available. So just from a practical standpoint, it is

wonderful to have the option to vote when convenient.

And I know—you mentioned research on this. From speaking with folks who run elections in States that have had mail-in voting for some time—Colorado, Washington—they talk about the fact that it increases participation. Isn't that right?

Mr. Pettigrew. Yeah. There is some research on that that sug-

gests that—that it can have a positive impact on turnout.

Ms. Scanlon. Right. And I would second what you said about, you know, some of the lines we saw in 2020. We did see that issue as well, having lines at polling places. But in part it was because so many of our polling places, at least in Pennsylvania, are often staffed by seniors, and of course the pandemic had a disproportionately harsh effect on seniors, and many of them chose not to volunteer this year because of concerns for their health. So that created staffing shortages, which we also had to deal with.

But, overall, it appears that we have the know-how, we have the means to move forward to make it easier for people to vote safely and vote in our systems that have, you know, integrity. So thank you for the work that has gone into the research on this panel to

show that we can do this.

And, with that, I would yield back.

Chairman Butterfield. Thank you, Ms. Scanlon. The gentlelady vields back.

At this time, the chair will recognize himself for five minutes.

Let me begin with you, Ms. McCurdy. Thank you again for your

testimony. Thank you for all the work that you do.

Ms. McCurdy, you noted in your testimony that since the Shelby County case back on June 25, 2013, a day that we shall never forget, polling places have been significantly reduced in formerly covered jurisdictions. What has been the impact of these closures on the voting experience of African-American voters, Hispanic voters, Asian-American voters, and any other racial minorities? What has been the impact?

Ms. McCurdy. I mean, I think you have heard some of the evidence of the impact in some of the testimony today: long lines, confusion about polling places, being—you know, standing in—or being in a situation where you are not able to vote because you don't know the information about early voting or voting hours, consolidation of polls. You go to the wrong poll, you find out that you are at—that you—that the consolidated poll is too far away for you to make it before the voting—the voting polls close. And so—and that

disenfranchises many people.

And to the question that has been asked about long lines and how that discourages people in the next election, when you stand in a long line in 2020 to vote, and then you have to plan your voting process for 2022, you take that in account and you ask yourself whether or not you will have time to stand in the long line that you assume that you will have to in 2022 when you planning your vote—yourself to vote. And oftentimes, that discourages people from voting, when they think back on their experience

Chairman Butterfield. Thank you.

Ms. McCurdy [continuing]. In the previous election.

Chairman Butterfield. Thank you for that.

You know, over the next few weeks, we are going to be doing some legislating in this space. We have already passed H.R. 1, the For the People Act, in the House of Representatives, and we are waiting for action in the Senate on that. But over the next few weeks, we hope to be introducing H.R. 4.

What reforms should Congress undertake disenfranchising effects on polling places? That is something that you are concerned about, we are concerned about. What can we do

to combat disenfranchising effects on polling places?
Ms. McCurdy. Well, I think that most——

Chairman BUTTERFIELD. I think I lost my video. Were you able to hear the question?

Ms. McCurdy. Yes.

Chairman Butterfield. Yes. Thank you.

Ms. McCurdy. Yes. So, I mean, I think the most important thing is to—is to pass the John Lewis Voting Rights Advancement Act, and that will create a new—new formulas for areas who are—have historically—they were historically discrimination, in particular for Black, Brown, and indigenous people. And that—so the Department of Justice can take a look at any of these voting changes before they become—before they are effective and make sure they do not have a racial impact. That is the most important thing.

What we are seeing, since the Shelby County decision, is there is no analysis around the racial impact that these voting changes will have, and they are also not transparent, and there is not notice that are given to voters when there are changes, and that is

where you see the confusion come in.

Chairman Butterfield. And let me thank you for mentioning our intent to pass the John Lewis Voting Rights Advancement Act, and we certainly plan to do that. But the purpose of these hearings-and we are going to have 16 hearings. This Committee is having-this Subcommittee is having six hearings. I think the House Judiciary Committee is having six or seven, and the Senate Judiciary Committee will be doing the same. But we are going to have these 16 hearings, because we want to build a very significant legislative record that will be persuasive to the Supreme Court if this were ever challenged.

Let me conclude by talking to Ms. Marziani. In your testimony, you make note of the fact that your State previously had to seek preclearance before changing any voting law or policy and that the State is no longer—must demonstrate that the proposed change would not negatively impact the participation of people of color.

How has the lack of any required impact analysis negatively im-

pacted your voters?

Ms. Marziani. I mean, in myriad of ways. And, again, I have submitted extensive evidence in my written remarks of the voting

law changes, which sadly have been numerous.

Just on polling place closures alone, we have heard that Texas closed more than any other State in recent years. The Texas Civil Rights Project did an analysis of county compliance with State election law, and actually found that in 2018, Texas was short as many as 270 polling places across the whole State that impacted more than 4 million people. And the Blacks were—the reduction of polling places was particularly impactful in cities like Waco, Texas, that have large Black populations.

So, you know, we see it, honestly, in almost everywhere you look at voting in Texas. And as I said, unfortunately, lawmakers seem poised to pass yet another law this summer without any sort of impact on the racial disparities that it threatens to have.

Chairman Butterfield. Thank you. The gentleman's time has

expired. Thank you. Thank you so very much.

Let me thank all of the witnesses for your testimony. It has been very insightful, and we thank you very much. You are helping us to build a legislative record that will be very, very valuable as we write the John Lewis Voting Rights Advancement Act. Thank you very, very much.

In just a moment, we are going to be moving to our second panel.

I am going to take a 2-minute break.

[Recess.]

Chairman BUTTERFIELD. All right. The Subcommittee is now back in session.

Thank you for your patience, and thank you again to our first

panel.

Joining us today on our second panel are Michael Herron of Dartmouth University; Gilda Daniels of Advancement Project; Danielle Lang of Campaign Legal Center; Isabel Longoria—I cannot pronounce it. Help me, staff—Longoria—thank you—the elections administrator of Harris County, Texas; and Ashlee Titus of the Lawyers Democracy Fund. Thank you for joining us today.

Next, we have Dr. Michael Herron. Dr. Herron is the William Clinton Story Remsen 1943 professor of government at the legendary Dartmouth University. His areas of expertise include election administration and applied statistical methods, and his research has analyzed the impact of a variety of election administration practices on turnout in minority voters. Dr. Herron holds his degree, his Ph.D. degree, in political science from Stanford University.

Next is Gilda Daniels. Ms. Daniels is the director of litigation at the Advancement Project, and an associate professor at the University of Baltimore School of Law. She is a nationally recognized voting rights and election law expert, served as a deputy chief in the Voting Section of the Department of Justice's Civil Rights Division

under President Clinton and President Bush.

Next is Danielle Lang. Danielle is the director of the Voting Rights program at the Campaign Legal Center, where she litigates a wide range of voting rights and redistricting matters before Federal courts, including our Supreme Court. Ms. Lang also has an active amicus brief before the Supreme Court and other Federal courts as she is an adjunct professor at Georgetown Law, where she teaches an election law practicum.

Isabel Longoria. Thank you. Thank God for staff. Ms. Longoria is the elections administrator for Harris County, Texas. She is the first person to serve in the newly created office appointed by the County Commissioners Court. During the 2020 election, she worked alongside Harris County Clerk Chris Hollins at the County Elections Office helping implement many of the successful and in-

novative voting policies in Harris County that they used during the election of 2020.

Finally, Ashlee, Titus, Ashlee is a board member and the corporate secretary of the Lawyers Democracy Fund. She is a partner at the law firm of Bell, McAndrews & Hiltachk, which she joined in 2004, and she maintains a nationwide law practice, advising clients on compliance with complex campaign finance and advertising, lobbying, and nonprofit tax exempt statutes and regulations.

Thank you to the witnesses.

And now I will recognize each witness. I will begin with Dr. Herron. You are now recognized for five minutes.

STATEMENTS OF DR. MICHAEL C. HERRON, PROFESSOR, DARTMOUTH UNIVERSITY; MS. GILDA DANIELS, DIRECTOR OF LITIGATION, ADVANCEMENT PROJECT; MS. DANIELLE LANG, DIRECTOR, VOTING RIGHTS, CAMPAIGN LEGAL CENTER; MS. ISABEL LONGORIA, ELECTIONS ADMINISTRATOR, HARRIS COUNTY, TEXAS; AND MS. ASHLEE TITUS, BOARD MEMBER AND CORPORATE SECRETARY, LAWYERS DEMOCRACY FUND

STATEMENT OF MICHAEL C. HERRON

Mr. HERRON. Thank you, Representative Butterfield and Representative Steil, for this opportunity to speak to the Committee.

I appreciate this.

My work as an academic is in the field of what is called election administration. We obviously heard a lot about that in the first panel. This is a field in political science. It dates roughly to 2000. That is—in the Presidential election, it was complicated, disputed then. That was the origin of a lot of interest in political science and the sort of questions that we are engaging in discussion today. My own research reflects that as well.

It is a nonpartisan field. People interested in election administration study how it is that voters cast their ballots, not why some are Democrats or Republicans. I just want to emphasize that so it is clear that this is really a scientific field trying to understand how

a system works.

Å key concept in the field of election administration is what is called the cost of voting. This refers to a cost—not necessarily a financial cost—that individuals must pay in order to participate in democracy.

So one cost is time. It is called a time tax. People waiting in line is a cost of voting. Gathering documents, traveling to vote, possibly determining where to vote, these are all activities that incur costs,

and so it is a generic part of a cost of voting for a voter.

One question that people in election administration address is: Is the cost of voting roughly the same for all Americans? This is a question about equal treatment. It is different than the question of is the cost of voting low. It is the question: Are all voters treated the same in this matter? So I will return to that briefly at the end of my presentation.

The cost of voting, I will organize my thoughts around this. There have been efforts within the past several decades in the United States to lower the cost of voting for Americans. These

are-travel under the name of convenience measures or convenience voting. Two of them that are very common or prominent now

are early voting and voting by mail.

Early voting is voting in person prior to election day. And the research on this study has two consistent findings. One is that minority voters are disproportionately heavy users of early voting. My own work shows this. We already heard about souls to the polls. My own work sort of shows the effective Sunday early voting for minority voters, in particular, African Americans. So we see that

regularly across the country.

The second finding in the literature on early voting is that more of it leads to more voting. The effects are not enormous, but they are there nonetheless. And when I say more of it, I am referring to days and times. States have discretion over where-how much early voting they want to offer. Many States don't offer any, but the ones that do can have—choose the number of days and hours. So the research that has primarily come out of State of Ohio shows that more early voting leads to voting—leads to more voting in gen-

The second convenience measure that I mentioned earlier is voting by mail. So we have heard, again, about this in the first panel. We know that there was a surge in voting—in vote by mail in the pandemic election. And just to draw out the consequences of the cost of voting, I just want to, like, give you some statistics in Flor-

ida that are broken down by race.

So if we compare, say, the vote-by-mail rates in Florida in 2016 and in 2020, what we notice is that the African-American voters surged heavily toward vote by mail, 89 percent increase from, say, 20 percent of African-American voters in Florida voting by mail in 2016, to 39.3 of them in 2020. That is a much greater increase than any other ethnic or racial group in Florida. And this just illustrates how certain types of groups take advantage of convenience voting and at different rates.

The two other aspects of the cost of voting I just want to briefly touch on—we have heard about them before—one is lines, and Professor Pettigrew already summarized the literature on that, which shows that minority voters have to spend extra time in line compared to non-minority voters. In other words, their cost of voting

is greater.

And, in addition, there is literature on the effect of voters receiving new polling places. So this literature, which is concentrated in Florida, North Carolina, and California, shows that when individuals receive new polling places, that their voting rates tend to drop in a very—in a subtle way, but they tend to be lower in future elections, much as voters who wait in lines tend to have slightly lower

turnout rates in future elections.

We know that these features of election administration—lines, polling places, closures, and so forth—disproportionately affect minority voters. And that means that these individuals, circling back to sort of how I wanted to start, disproportionately have higher costs of voting than nonminority voters, and that just—that shows that these election administration practices have consequences for equal treatment of voters and, in particular, different racial and ethnic groups in the country.

Thank you very much. [The statement of Mr. Herron follows:]

Testimony to the Subcommittee on Elections of the Committee on House Administration of the United States House of Representatives

Michael C. Herron

Department of Government

Dartmouth College

June 9, 2021

Introduction

My name is Michael C. Herron and I am the William Clinton Story Remsen 1943 Professor of Government at Dartmouth College in Hanover, New Hampshire. I have taught at Dartmouth since 2003 and previously was on the faculty of Northwestern University. I earned my doctorate from the Graduate School of Business at Stanford University in 1998, and my present research agenda focuses on American politics and in particular, on election administration.

Broadly construed, scholars whose research agendas fall in the area of election administration study the rules and procedures that prescribe how voters cast their votes, the experiences that voters have when participating in elections, and how elections are managed. Scholars of election administration tend not to focus on why any particular group of voters might prefer one set of candidates over others. My research agenda reflects this. Like other scholars who work in election administration, I study how voters register their preferences in elections, regardless of what these preferences happen to be.

Scholars of election administration cover a variety of topics in their research endeavors. Among other things, they study when voters cast votes, whether they vote in-person or with vote-by-mail ballots, where they vote if they vote in-person, how voters authenticate

themselves prior to voting, the *machines* that voters use when they cast their ballots, the *ballot formats* that voters engage when voting, and the extent to which their ballots are *rejected* after being cast. My published research in election administration has engaged many of these subjects, and I touch on some of them here.

Election administration in the United States

A key feature of election administration in the United States is the extent to which it is decentralized. This is a reflection of American federalism. States have broad authority over how elections are administered within them, and they vary in their election laws. Moreover, state governments typically delegate many election administration duties to county governments or, in the case of New England states, to town or city governments. For example, Walker, Herron and Smith (2019) describe the discretion that county officials in North Carolina have over the days and hours of permitted pre-Election Day voting.

A consequence of the extent to which the American system of election administration is decentralized is variability in election rules and procedures both across and within states. That is to say, the jurisdiction in which an eligible voter lives affects how the individual registers to vote, the methods of voting available to the voter, deadlines and procedures associated with these methods, and the rules that govern how the voter's ballot is treated, among other things.

Moreover, states vary dramatically in the extent to which they make election data public. In some states (e.g., Florida and North Carolina), lists of registered voters and their demographic characteristics are public and easily accessed by researchers. In other states (e.g., New Hampshire), lists of registered voters are unavailable for research. A consequence of variability in data availability is that published articles in the academic literature on election administration often focus on individual states or small collections of states. This should not be understood as reflecting narrow interests. Rather, certain topics in the field of election

administration simply cannot be studied in some states on account of laws that govern access to data.

Forms of in-person voting and voting by mail

Variability across states in election laws notwithstanding, eligible voters in the United States may cast ballots in one of two ways: either in-person or with vote-by-mail (VBM) ballots. While there are definitional subtleties in how different states classify voting that does not take place in-person, this dichotomy (in-person voting versus VBM voting) is nonetheless a useful one.

In-person voting takes place in locations designated by elections officials. Moreover, it takes place either on Election Day itself or on a day prior to Election Day. The latter is possible only in states that offer what is known as early voting.

Early in-person voting

As I employ it here, the term "early voting" refers to in-person voting before Election Day. Some states that offer early voting label it in unique ways (i.e., in North Carolina, early voting is called "One-stop early voting" and early voters in this state technically use absentee ballots) and other states offer early voting without labeling it as such (i.e., Maine, where voters prior to Election Day may complete absentee ballots in the presence of local clerks). In other states, early voting is simply called, "early voting" (i.e., Florida). As of the writing of this testimony, 43 states offer early voting, and a 44th (Delaware) is slated to join this group as of 2022.¹

Early voting is a form of "convenience voting" (Gronke et al., 2008), whose implementation decreases the cost of voting. The term "cost" here refers not necessarily to a monetary

¹See "State Laws Governing Early Voting," National Conference of State Legislatures, October 22, 2020, available at https://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx (last accessed June 7, 2021).

cost of participating in an election that would be borne by an individual but rather to the time, effort, and tasks that a voter must perform in order to vote. The costs of voting can include time spent waiting in line at a polling place, time spent registering to vote, time spent gathering documentation to establish voting eligibility, time spent traveling to vote, and the monetary cost of traveling to a polling place, among other things.

Scholars of election administration care about the cost of voting because of its relationship to voter turnout. The higher the cost of voting in a state, the lower the turnout tends to be, all things equal (Li, Pomante II and Schraufnagel, 2018).

Along with other forms of convenience voting and methods of voter registration, early voting has expanded across the United States over the past several decades (Biggers and Hanmer, 2015). In this time period, early voting has been heavily used by minority voters. My article on this subject (Herron and Smith, 2012) uses election data from Florida and highlights the tradition known as "Souls to the Polls," in which Black voters vote disproportionately often on Sundays before Election Day. Florida notwithstanding, I show in Herron and Smith (2016) that, in North Carolina, Black early voters disproportionately voted in the first week of early voting (a week of early voting that, per a then-state law called the "Voter Information Verification Act," was eliminated). Gronke and Galanes-Rosenbaum (2008) document a regularity involving Hispanic voters and disproportionate use of early voting.

Kaplan and Yuan (2020) estimate that "a day extra of early voting increases turnout by 0.218 percentage points" and that "those in child-rearing years and prime working years are particularly impacted by early voting availability" (p. 58). Relatedly, I show in Herron and Smith (2014) that minority voters, Democrats, and voters without formal party affiliations used early voting less frequently in Florida 2012 after early voting opportunities were diminished in the state compared to 2008.

The implication of the findings reviewed above is that the particular days of early voting offered in a jurisdiction—a state, county, or city/town—are not politically neutral. Certain

types of voters tend to use different days of early voting. Thus, changes to election administration procedures that affect precisely when early voting is offered—i.e., on weekdays only as opposed to on both weekdays and weekends—will affect different racial groups differently.

Finally, changes to early voting hours that reduce pre-Election Day, Sunday voting opportunities should be expected to disproportionately affect Black voters. If, hypothetically, a state were to eliminate Sunday early voting, the cost of voting for Black voters would disproportionately increase compared to White voters given the relatively heavy use of Sunday early voting by Black voters.

Voting lines

Voters who cast their ballots early in-person must, like in-person Election Day voters, contend with the potential of voting lines. Voting lines constitute a time tax (Mukherjee, 2009). The longer a voter has to wait in line, the more of this tax the voter pays and thus the greater the cost of voting. Depending on the voting technology used in a given voter's jurisdiction, a voter can be forced to wait in line before checking in to vote; after checking in and prior to voting; and, after voting and prior to inserting a completed ballot into a tabulating machine. Spencer and Markovits (2010) describes the mechanics of in-person polling places and where lines can form.

Long lines constitute one aspect of polling place features that can deter voting. Stewart III and Ansolabehere (2015) note that, "Responses to the 2012 Voting and Registration Supplement (VRS) of the Current Population Survey suggest that over 500,000 eligible voters failed to vote because of a list of polling place problems that include long lines–inconvenient hours or polling place location, or lines too long." In 2020, the number of eligible voters similarly affected was 333,060.² Thus, in the most recent general election in the United States, more than 300,000 voters reported not voting for reasons associated with polling

²This number is based on Table 10 of the corresponding 2020 Voting and Registration Supplement, available at https://www2.census.gov/programs-surveys/cps/tables/p20/585/table10.xlsx (last accessed June 7, 2021). The key figure in the table is 2.6 percent; I multiplied this by 12,810,000, yielding 333,060.

place inconvenience, one aspect of which is voting lines.

Much of the research on voting lines is relatively recent, and this reflects the difficulty inherent in studying this subject. The vast majority of polling places in the United States do not maintain comprehensive records on when their voters arrived to vote or how long voters waited in line before casting ballots. That said, the research in this area leverages publicly available data on polling places, surveys on voter experiences that query voters about how long they waited in line to vote, and timestamp data that describes when voters checked in to vote.³

With respect to the latter source of data, in some situations data on such check-in times can be informative about voting lines. If, for example, a polling place officially closed at 7:00pm on a given day (meaning, its check-in line was capped at 7:00pm), yet a voter checked in to vote at 7:30pm, then it must be the case that this voter had to wait in line for at least 30 minutes. Thus, check-in times after official polling place closure times provide conservative characterizations of voter wait times. These data are conservative because, one, a voter who checked in at 7:30 waited at least 30 minutes before checking in and, two, counting voters who voted after a polling place's closure time does not identify voters who waited in line to vote but checked in before such a time. These caveats notwithstanding, Cottrell, Herron and Smith (2020) is a study of early voter check-in times in Florida and it shows that, in Florida's 2012 general election, "On the final Saturday of early voting, over 50 stations were still open at 9:00 p.m., and a few processed voters through midnight." An early vote processed at 9:00pm must have waited at least two hours to vote and an early voter processed at midnight, at least five hours. Cottrell, Herron and Smith show as well that early voting check-in lines were much shorter in Florida in 2016 than in 2012, a reflection of expanded early voting opportunities in 2016.

Across the United States and through recent election cycles, minority voters—in partic-

³A prominent survey used in the study of election administration is the *Survey of the Performance of American Elections* (SPAE), available at https://electionlab.mit.edu/research/projects/survey-performance-american-elections (last accessed June 7, 2021). The earliest SPAE for which data are publicly available dates to 2008.

ular, Black and Hispanic voters—have been forced to wait in longer voting lines than White voters. Survey data show that this was the case in 2008 (Mukherjee, 2009) and in 2012 (Stewart III, 2013). In 2016, Chen et al. (2020) conclude using data from smart phones that, "[A]reas with a higher proportion of black (and to a lesser extent Hispanic) residents are more likely to face long wait times than areas that are predominantly white" (p. 18). Another study of voting in 2016, one covering 28 jurisdictions across the United States, shows that polling place resources, and in particular staffing levels, affected voting line lengths (Stein et al., 2020). And, an article drawing on the 2006, 2008, 2012, and 2014 versions of the Cooperative Congressional Election Study identifies a persistent effect of a precinct's racial composition on voter wait times, namely, the greater the extent that a precinct is populated by White voters, the lower the average wait time (Pettigrew, 2017).⁴ Pettigrew attributes this primarily to polling place resources much in the way that Highton (2006), a study of Franklin County, Ohio, in the 2004 election, attributes long lines to a dearth of voting machines.

The consequences of differential line lengths across racial groups is notable in light of findings on the relationship between waiting in line and turning out to vote in the future. Pettigrew (2021) is a study of voting in Boston and in Florida, concluding that voter turnout rates are "roughly [one] percentage point [lower] for every additional hour of waiting [in line in an earlier election]." My article on the subject of the consequences of voting lines draws on early voting check-in times in Florida in the 2012 and 2016 elections (Cottrell, Herron and Smith, 2020). Like Pettigrew (2021), it finds that standing to wait in line to vote has a small but notable depressing effect on future turnout.

In the most recent election cycles in the United States, minority voters have historically faced longer voting lines; and, waiting in line to vote has a small but slightly negative effect on future turnout. Thus, compared to their majority counterparts, minority voters in the United States have disproportionately been subjected to a feature of elections known to

 $^{^4}$ The Cooperative Congressional Election Study is a national survey instrument used by academics across the United States.

diminish turnout.

Voting by mail

VBM ballots have historically been called absentee ballots. As I use the term here, VBM ballots are not voted in-person at polling places designated by elections officials. Rather, after they are completed by voters at locations of their own choosing, VBM ballots can be submitted by mail to elections officials or dropped off at designated voting locations.⁵

Large-scale absentee voting began in the United States during the Civil War years, when many soldiers were away from their homes.⁶ As of 2021, state laws vary considerably as to who is permitted to vote VBM, and as of 2021 the term "absentee ballot" is somewhat of a misnomer in many jurisdictions. Some states allow all eligible voters to vote in this way (i.e., Florida, a state which a voter need to be "absent" from his or her jurisdiction in order to vote VBM) and others restrict VBM voting to those voters who satisfy a set of official criteria (i.e., Texas, a state in which select types of voters need not be "absent" from their jurisdiction in order to vote VBM).

States whose laws permit any registered voter to vote via VBM are sometimes said to allow "no excuse absentee voting." The origins of this term lie in the fact that VBM ballots have often been (and sometimes still are) called "absentee ballots," whose use required an official rationale or excuse.⁷ There are presently a total of 34 states (plus Washington, D.C.) that offer no-excuse absentee voting.⁸

As of 2021, five states (Colorado, Hawaii, Oregon, Utah and Washington) conduct their

 $[\]overline{^5}$ States vary in VBM ballot drop-off procedures and in the extent that third parties can assist VBM voters with ballot drop-off.

⁶See "Voting by Mail Dates Back to America's Earliest Years. Here's How It's Changed Over the Years," TIME.com, September 28, 2020, available at https://time.com/5892357/voting-by-mail-history (last accessed June 7, 2021).

⁷In my discussion of VBM voting, I focus on domestic, non-military VBM voters. The Uniformed and Overseas Citizens Absentee Voting Act—known colloquially as UOCAVA—governs rules pertaining to voters serving in the military, dependents of these individuals, and United States citizens who live out of the country.

⁸See "VOPP: Table 1: States with No-Excuse Absentee Voting," National Conference of State Legislatures, May 1, 2020, available at https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx (last accessed June 7, 2021).

elections essentially entirely by mail (and thus, by construction, are also no-excuse states). Three states (California, Nebraska and North Dakota) provide counties with discretion as to whether they want to implement all-mail elections.⁹

During the COVID-19 pandemic, which affected much of the 2020 election cycle, there was a surge across the United States in VBM voting. In addition, some states and other jurisdictions that had not previously administered elections via mail turned during the pandemic to this form of voting in light of public health exigencies (i.e., the majority of the counties in Montana, a state that prior to 2020 did not conduct all-mail elections, conducted the state's 2020 general election via mail). Of voters in the November 2020 election, approximately 43 percent cast VBM ballots, ¹⁰ roughly twice the percentage of voters who cast ballots this way in the November 2016 general election. ¹¹

The 2016 to 2020 shift to VBM voting was not uniform across racial groups, as Florida illustrates. Table 1 reports VBM rates by race group for the 2016 and 2020 elections ("VBM percent, 2016" and "VBM percent, 2020," respectively), the corresponding change in rates ("Increase"), and the percentage change in rates ("Percent increase").¹²

Table 1 highlights a racial disparity in the extent to which voters turned to VBM voting in Florida in 2020 compared to 2016. The VBM voting rate of Black voters increased from

⁹See "VOPP: Table 18: States With All-Mail Elections," *National Conference of State Legislatures*, April 21, 2020, available at https://www.ncsl.org/research/elections-and-campaigns/vopp-table-18-states-with-all-mail-elections.aspx (last accessed June 7, 2021).

¹⁰ See "Voting and Registration in the Election of November 2020," United States Census Bureau, April 2021, in particular Table 14, available at https://www2.census.gov/programs-surveys/cps/tables/p20/585/table14.xlsx (last accessed June 7, 2021). On the 2020 general election in Montana, see "All-mail' ballots in Montana: How will it work this election?," KPAX.com, September 15, 2020, available at https://www.kpax.com/news/election-2020/all-mail-ballots-in-montana-how-will-it-work-this-election?fbclid=IwAR17XiRCoy30UhjZSf-6mlutEhUi06rOtSPeJB4upxXQGIQcHafoBSK60ik) (last accessed June 7, 2021).

¹¹For the 21 percent figure, see "Majority of Voters Used Nontraditional Methods to Cast Ballots in 2020," United States Census Bureau, April 29, 2021, available at https://www.census.gov/library/stories/2021/04/what-methods-did-people-use-to-vote-in-2020-election.html (last accessed June 8, 2021).

¹²The figures in Table 1 are drawn from two Florida statewide voter files dating to January 2017 (used for the 2016 election) and January 2021 (the 2020 election). The individuals listed in these files who are part of Table 1 consist of voters who have valid history codes that are not equal to "N." VBM voters are those who have history codes of "A" (cast a valid VBM ballot) and "B" (cast a VBM ballot that did not count). Some voters in Table 1 appear twice in the 2017 and 2021 statewide voter files (5,615 duplicated voters in the former and 498 in the latter), but the number of individuals like this is not consequential for the table's percentages.

Table 1: Comparing VBM voting in Florida 2016 and 2020

Race	VBM percent, 2016	VBM percent, 2020	Increase	Percent increase
Asian	30.7	52.5	21.9	71.2
Black	20.8	39.3	18.5	89.2
Hispanic	27.5	41.0	13.4	48.8
White	31.0	44.3	13.3	42.7
All groups	29.1	43.3	14.3	49.2

Note: percentages in the table are rounded.

almost 21 percent to around 39 percent. To be clear, of Black voters in the 2016 election, 21 percent cast VBM ballots; of Black voters in the 2020 election, 39 percent voted in this way. A change from 21 percent to 39 percent represents an 89 percent increase, which is much greater than the corresponding increase for White voters, whose VBM rates shifted from 31 percent in 2016 to 44 percent in 2020. The latter represents approximately a 43 percent increase. I note that 89 percent is roughly twice as large as 43 percent.

Whether the VBM voting rates observed across the United States during the COVID-19 pandemic will return to pre-pandemic levels is uncertain as of mid-2021. Still, the variability in how racial groups changed their VBM voting rates in response to the exigencies of COVID-19 mirrors the fact that racial groups have different preferences for days of early voting. Changes to VBM voting procedures should not expected to be racially neutral anymore than changes to early voting procedures.

Polling place locations

In-person voters must vote at polling locations designated by elections officials. However, depending on jurisdiction and circumstance, these voters may have flexibility over where they cast their ballots. In Florida, for example, an Election Day in-person voter must vote at a location, designated by officials, corresponding to the voter's address. However, an early in-person voter in Florida can vote at any permitted early voting location within his or her county. Thus, Florida early in-person voters who live in counties that offer multiple early

voting locations have options over where to vote.

Election Day in-person voters thus face informational hurdles that are not faced by VBM voters and, potentially, are different than the hurdles that face early in-person voters. Namely, voters who cast their ballots in-person and on Election Day must know the one place where they are allowed to vote. This explains why scholars of election administration have considered what happens when voters' designated Election Day voting locations change.

While the literature on the subject of polling place locations is not extensive, it is consistent. Haspel and Knotts (2005) show in a study of Atlanta, Georgia, that a voter's distance to an Election Day polling location was negatively associated with propensity for turnout; Brady and McNulty (2011) show that voters in Los Angeles County who received new polling locations prior to the state's 2003 gubernatorial recall election were less likely to turn out to vote in this election than voters who did not receive new voting locations; and, Amos et al. (2017) show with data from Manatee County, Florida, that "those [voters] who were assigned to a new polling location were less likely to go to the polls on Election Day in 2014 and more likely to abstain than those who kept their polling location[s]" (p. 149). Moreover, Amos et al. find that turnout of the Hispanic voters in their study was most negatively affected by changes in polling locations compared other racial groups. And in a recent working paper, Yoder (2020) shows that polling place changes in North Carolina lead to small—and negative—changes in voter turnout rates.

Overall, the literature on polling place locations, while not large, covers a variety of jurisdictions and suggests that changes to polling locations negatively impact voters insofar as having a small and downward effect on turnout. And, there is evidence that the effect of polling place changes on voters is not neutral with respect to race.

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Chairman Butterfield. And thank you for your testimony. At this time, the chair recognizes Ms. Daniels for five minutes.

STATEMENT OF GILDA DANIELS

Ms. Daniels. Thank you to Chairperson Butterfield and to the Committee on House Administration, Subcommittee on Elections, for holding today's important hearing discussing how voting restrictions impede the right to vote.

I have more than two decades of expertise in the voting rights area. I have dedicated my career to ensuring free and fair access to the right to vote. It is appropriate to have this discussion today with the onslaught of proposed legislation across the country that has as its intent to make it harder to access the right to vote.

My testimony today will discuss historical and contemporaneous challenges to the right to vote, the disproportionate impact on voters of color, and the need for Federal legislation that protects the

right to vote.

So we have been here before. We have seen these cycles of voter suppression, and they are throughout our history, from the founding, where only White male property owners were allowed to vote, certainly to the passage of the Civil War amendments where, during Reconstruction, Black men were able to elect persons to local, State, and Federal offices. Historians said that it was the first time that we witnessed a multiracial democracy.

In my book, "Uncounted: The Crisis of Voter Suppression in America," I have a subtitle that says, "free at last, not so fast," which is certainly what they experienced, because, shortly thereafter, we saw literacy tests, grandfather clauses, poll taxes, felon disenfranchisement, and all-White primaries as prevalent conniving methods that prevented people of color from registering and accessing the right to vote. It was State laws throughout the South and other parts of the country that barred people of color from the voting—from the voting booth.

It was the Voting Rights Act that provided Black and Brown people the ability to access the right to vote. The impact of the Voting Rights Act cannot be overstated. We must note that Blacks have been in this country for 400 years and have only been voting for

This is a testament to the power of the Voting Rights Act. It removed barriers such as literacy tests, as well as poll taxes and other disenfranchising mechanisms, and allowed Black and Brown people across the country, but particularly in the South and Southwest, to access the right to vote.

The Act has been severely weakened and endures constant assault. The Shelby County v. Holder decision, which has been discussed earlier, sounded the alarm for legislatures to once again pass laws that would make access to the right to vote harder and impede the ability of voters of color.

Some States responded, almost immediately, to pass restrictive and suppressive legislation that adversely impacted voters of color. Since Shelby, a weakened Voting Rights Act allows States to engage in the process of voter suppression without consequence, and

that is certainly what we are seeing today.

Advancement Project has chronicled the Shelby effect on communities of color in several publications that are included in my written testimony, and I would ask that they would be included and

entered into the record today.

We conducted people's hearings across the country in 2019, and allowed persons to provide firsthand accounts and tell the story of resilience, perseverance, and voter suppression. Voters of color encounter a plethora of problems in their attempt to exercise their right to vote. When polling places close or other barriers are erected to access the right to vote, the burden and cost to voting in-

creases tremendously in communities of color.

Since the *Shelby* decision, voters of color have been increasingly harmed by polling site closures, language access barriers, States failure to comply with the ADA, financial barriers to voting, and lack of transparency on voting law changes, among many other voter suppression tactics. These tactics force voters to travel long distances to register or to cast a ballot, and certainly are inclusive of those cost of voting measures that Professor Herron just recently discussed.

We saw in November 2020 certainly the—that access to early weekend voting was crucial, and we saw that, certainly in Georgia, that voters of color participated in—that voters of color participated in souls to the polls and weekend voting at a higher percentage than White voters.

We have also—Advancement Project and other civil rights organizations have been engaged in certainly trying to expand access to the ballot in 2020 and are now challenging laws that seek to roll back that access in 2021.

As a former deputy chief in the Civil Rights Division Voting Section, I must say that litigation is not enough. Litigation alone will not address the widespread assault on the right to vote. Without section 5, we have returned to the piecemeal litigation that does

not address the systemic problem.

Congress must pass legislation that addresses the disproportionate impact and burden on voters of color accessing the right to vote, which requires States with a proven history of voter suppression and discrimination to prove that any changes to their election laws will not disenfranchise voters. Congress has the power to rewrite and certainly to write an ending that supports access and addresses the disproportionate impact on voters of color—on voters of color.

This should not be a partisan issue. It is an issue that is fundamental to our democracy, and I encourage Congress to protect our democracy and pass appropriate legislation.

Thank you.

[The statement of Ms. Daniels follows:]





Written Testimony of Professor Gilda R. Daniels

Litigation Director, Advancement Project National Office Professor, University of Baltimore School of Law

Committee on House Administration, Elections Subcommittee Hearing

Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot

Friday, June 11, 2021

Washington, DC

Introduction

Thank you to Chairperson Lofgren and to the Committee on House Administration, Subcommittee on Elections for holding today's important hearing discussing *Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot.* My name is Gilda Daniels. I serve as the Director of Litigation at Advancement Project National Office, which is a multi-racial civil rights organization that uses a three pronged approach to achieve a just democracy. Advancement Project uses campaigns, communications, and litigation to support and empower its partners on the ground to gain power in their communities. We have four program areas: Power & Democracy (voting rights), Opportunity to Learn (education), Justice (policing and criminalization) and Immigrant Justice (immigration). During the twenty plus years of its existence, Advancement Project has been on the front lines of the fight for voting rights working with organizations and communities in Arizona, Florida, Georgia, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Pennsylvania, and Virginia.

I am also a Full Professor at the University of Baltimore School of Law where I teach Election Law, Civil Procedure, Appellate Advocacy, and Critical Legal Theory, which includes Jurisprudence, Feminist Legal Theory, Critical Race Theory, Socio-Economics and Access to Justice. My scholarly writings and research focus on the intersections of race, law, and democracy. I have extensive writings on voting rights, election law, and democracy and am well-published in law reviews across the country, including California Law Review, George Washington Law Review, Kentucky Law Journal and others. In January 2020, I published Uncounted: The Crisis of Voter Suppression in America with NYU Press that chronicles the cycles of voter suppression and suggests ways to achieve access to the ballot in a free, fair, and nondiscriminatory manner. Importantly, I served as a Deputy Chief in the United States Department of Justice, Civil Rights Division, Voting Section during the Clinton and Bush administrations. Consequently, I have more than two decades of expertise in the voting rights area. I have dedicated my career to ensuring free and fair access to the right to vote. It is appropriate to have this discussion today.

In the midst of a pandemic, jurisdictions reformed the election process to make access to the ballot easier. During the 2020 election process, states, counties, and locales expanded the opportunity to vote when they loosened the restrictions on vote by mail and extended early voting. These modifications were consistent with the Center for Disease Control's suggestions and helped eligible citizens to forego the false equivalencies of "casting a ballot or catching a virus." The expansion of early voting, mail in ballots and other measures lead to an increase in voter turnout. The expansions proved that if you make it easier to vote, remove unnecessary restrictions, inevitably making it easier to vote, not harder, then the people will vote. The hope after the record turnout in 2020 was that these expansive measures would continue, particularly

¹ See, e.g., Democracy's Destiny, forthcoming California Law Review (2021); Voting Realism, 104 Ky. L.J. 583 (2016); Unfinished Business: The Continuing Need for the Voting Rights Act, 81 Geo. Wash. L. Rev. 6 (2013); Senator Edward Kennedy: A Lion for Voting Rights, 14 N.Y.U. J. Legis. & Pub. Policy 415 (2011); Racial Redistricting in a Post-Racial World, 32 Cardozo L. Rev. 947 (2011).

² Gilda R.Daniels, Uncounted: The Crisis of Voter Suppression in America, (NYU Press, 2020).

since after multiple audits in several states and the touting that the 2020 Presidential election was the most successful and safest ever. After several inquiries and audits and despite more than 60 lawsuits, no fraud was found. The election was certified and the people had spoken. This was democracy. People experienced expanded access to the ballot.³

Moreover, Advancement Project was in Florida, Pennsylvania, Virginia, Michigan, and Georgia on election day assisting voters with accurate voter information and coordinating with local officials to address numerous issues. Despite the high turnout and the extraordinary efforts of grass roots organizations to protect voters, the aftermath of the election has been stunning and disheartening. The more than 60 lawsuits were overwhelmingly found to lack merit. These cases and claims, however, have been used to fuel a tsunami of anti-voting legislation meant to rollback not only the gains made in the 2020 election but those made in the last few decades. Nonetheless, these disenfranchising efforts are not new, but they are incredibly dangerous to our democracy. Our country is experiencing an assault on its democratic principles that challenge the ability for eligible persons to access the right to vote. It is essential to put our current circumstances in an historical context and acknowledge the need for a federal response to pursue and protect the democratic process. Accordingly, my testimony will discuss historical and contemporaneous challenges to the right to vote, the disproportionate impact on voters of color and the need for federal legislation that protects the right to vote.

I. Historical and Contemporaneous Challenges to the Right to Vote

In the beginning, this country excluded most of its occupants from the benefits of citizenship. It engaged in what I call a paradoxical democracy. On the one hand, it declared that "all men are created equal" and on the other denied basic human and civil rights to a large portion of its inhabitants. The right to vote was reserved for white, male, property owners. This exclusion persisted until the passage of the Civil War Amendments. These amendments-the Thirteenth ended slavery, the Fourteenth provided equal protection under the law, and the Fifteenth prohibited discrimination in voting-were the first step in including all people in "we the people." For more than a century "we the people" only included Whites and excluded Indigenous and people of color. The Civil War Amendments provided formerly enslaved persons the right to

Advancement Project is a founding member of Election Protection which received tens of thousands of calls with concerns on election day.

³ It is important to note that issues did exist during the 2020 election, e.g., the plethora of rules, confusion over ID requirements. threats of voter intimidation.

^{4.} ROBERT A. DAHL, HOW DEMOCRATIC IS THE AMERICAN CONSTITUTION? 22-23 (2d ed. 2003); see also CHILTON WILLIAMSON, AMERICAN SUFFRAGE: FROM PROPERTY TO DEMOCRACY, 1760-1860, at 19 (1960) (free, White, twenty-one, native-born Protestant males who were the owners of real property were the early participants in the franchise).

^{5.} U.S. Const. amend. XIII

U.S. Const. amend. XIV
 U.S. Const. amend. XV

⁸ See, e.g., Elk v. Wilkins, 112 U.S. 94 (1884)(US Supreme Court ruling that Indians were "not . . . citizen[s] of the United States under the Fourteenth Amendment."); Ozawa v. United States, 260 U.S. 178, 198 (1922)(upholding laws that prohibited Asians from voting or owning land); Smith v. Allwright, 321 U.S. 649 (1944)(banned all-white primaries). Lynch by Lynch v. Alabama, No. CV 08-S-450-NE, 2011 WL 13186739, at *47–48 (N.D. Ala. 2011), affd in part, vacated in part. remanded sub nom. I.L. v. Alabama, 739 F.3d 1273 (11th Cir. 2014)("Jim Crow

participate in the democratic process. Once the shackles of enslavement were removed, Black men registered and voted and changed their communities, making them more reflective of society. According to some historians, it was the first time that any country experienced a multiracial democracy. Indeed, the passage of the Civil War Amendments allowed Black men to experience the power and an abbreviated relationship with the right to vote.

During the period of Reconstruction that followed the passage of the Civil War Amendments, Black men participated as full citizens and enjoyed electoral success. During Reconstruction, Black men were able to elect persons to local, state, and federal offices. For example, in South Carolina, "where in 1870 [B]lack leaders, as the result of a concerted campaign for greater power, received half the eight executive offices, elected three Congressmen, and placed Jonathan J. Wright on the state supreme court, the only [B]lack in any state to hold this position during Reconstruction." Reconstruction.

This display of Black voter power was met with violence and economic terror. The Ku Klux Klan, the Knights of the White Camellia, Red Shirts, and other like-minded organizations sought to dismantle the pursuit of the ideal that all men were created equal. Historian Eric Foner noted, "It is a measure of how far change had progressed that the reaction against Reconstruction proved so extreme." In addition to violence, the reaction included a resurgence of White segregationist laws that would eliminate Black people from elected office and political participation. South Carolina Senator "Pitchfork" Ben Tillman divulged the Southern Strategy, "We organized the Democratic Party with one plank, and only one plank, namely, that 'this is a [W]hite man's country and [W]hite men must govern it." Southern legislators passed laws—such as poll taxes, grandfather clauses, literacy tests, and felon disenfranchisement—which had as their explicit intent to remove the "Negro" from the voter rolls. In Louisiana, in 1896, 135,000 Black men were registered, but due to the state's implementation of various disenfranchising devices, this number was reduced to less than 1,000 men by 1907. In the state's implementation of various disenfranchising devices, this number

laws' were state laws and local ordinances enacted from the end of Reconstruction through the first six decades of the twentieth century for the purpose of mandating *de jure* racial segregation of all public transportation conveyances, restaurants, restrooms, water fountains, schools, hotels, libraries, and virtually every other form of public accommodations and facilities."); See also, Smithsonian Nat. Museum of Am. History, *White Only: Jim Crow in America*, SEPARATE IS NOT EQUAL: BROWN V. BOARD OF EDUCATION, https://americanhistory.si.edu/brown/history/1-segregated/jim-crow.html

Regents of University of California v. Bakke, 438 U.S. 265 (U.S.Cal., 1978).

See, e.g., Eric Foner, Reconstruction: America's unfinished revolution, 1863–1877 354–55 (NY: Harper & Row, 1988) (approximately 650 Black people were elected from 1860-1877, an incredible achievement a few years after the end of slavery.)

^{10.} See Eric Foner, A Short History of Reconstruction, 1863-1877 (1990), pp.,151.

¹¹ Sheryll D. Cashin, Democracy, Race, and Multiculturalism in the Twenty-First Century: Will the Voting Rights Act Ever Be Obsolete?, 22 Wash. U. J.L. & Policy 71, 83 (2006).

^{12.} Foner, A Short History of Reconstruction, at 184.

John Hope Franklin & Alfred A. Moss Jr., From Slavery to Freedom: A History of African Americans 285 (8th ed. 2000)

Major v. Treen, 574 F.Supp. 325, 340 (E.D. La. 1983) (noting that, while Black suffrage increased from 1867 to 1898, the imposition of a grandfather clause and educational and property qualifications for registration reduced Black voter registration).

White segregationists maintained this level of Twentieth Century Suppression. disenfranchisement in Black and Brown communities throughout the South and Southwest for much of the twentieth century. Accordingly, the "we" in "we the people" did not include people of color. In Elk v. Wilkins, the United States Supreme Court found that Native Americans were "not . . . citizen[s] of the United States under the Fourteenth Amendment." 15 Latinx Americans have dealt with violence and laws that prevented the right to vote similar to those exercised over African American and Indigenous people. 16 Likewise, Asian American, Native Hawaiian, and Pacific Islanders (AANHPI) were denied the ability to vote for most of the country's existence, as Asian immigrants were barred from becoming citizens via federal policy until 1943 and subject to racial criteria for naturalization until 1952. In fact, many legislative efforts prevented Asian immigrants from even entering the country and becoming citizens.¹⁷ Asian immigrants were also prohibited from voting and owning land, as they were legally identified as aliens "ineligible for citizenship." 18 Indeed, despite passage of the Nineteenth Amendment in 1920 that prohibited discrimination based on gender, Black and Brown women in the South and Southwest did not realize the right to vote until passage of the Voting Rights Act of 1965.15

Dr. Martin Luther King, Jr. prescribed that "all types of conniving methods "were used to keep the Black voter from registration. These methods were common. In my book, *Uncounted*, I include firsthand accounts of voter suppression. For example, I recount the story of Ms. Myrtle Pless Jones, the mother of my University of Baltimore colleague, Cassandra Jones Havard

Mrs. Myrtle Pless Jones moved to Montgomery, Alabama in 1955, after marrying an Alabama native, Robert F. Jones. Before relocating to Alabama, Mrs. Jones earned a bachelor's degree from South Carolina State College and a Master's degree from

^{15. 112} U.S. 94, 109 (1884).

¹⁶ See, Gilda Daniels, Tyson King-Meadows, Loren Henderson, We Vote, We Count: the Need for Congressional Action to Secure the Right to Vote for All Citizens (2019) [https://perma.cc/2XXZ-3N54] (citing Nina Perales, Luis Figueroa & Criselda G. Rivas, Voting Rights in Texas: 1982-2006, 17 S. CAL. REV. L. & SOC. JUST. 713, 713 (2008); "Around the same period, following the Mexican-American War in 1848, the U.S. had annexed over half of Mexico—what is now the states of Arizona, Colorado, California. New Mexico, Nevada, Utah, and portions of Kansas, Oklahoma, and Wyoming, plus Texas, annexed in 1845. Mexicans who resided in those territories and stayed were allowed to choose U.S. citizenship. Nonetheless, remaining meant they faced violence, and laws and practices similar to those experienced by African American and Native Peoples, . . .")

^{17.} See, e.g., Philippines Independence Act of 1934, ch. 84, 48 Stat. 456, 462 (amended 1946) (imposing annual quota of fifty Filipino immigrants); Immigration Act of 1924, ch. 190, 43 Stat. 153 (repealed 1952) (denying entry to virtually all Asians;); Scott Act of 1888, ch. 1064, 25 Stat. 504 (rendering 20,000 Chinese re-entry certificates mull and void); Naturalization Act of 1790, ch. 3, 1 Stat. 103 (repealed 1795) (providing one of the first laws to limit naturalization to aliens who were "free white persons" and thus, in effect, excluding African Americans, and later, Asian Americans).

^{18.} Gilda Daniels, Tyson King-Meadows, Loren Henderson, We Vote, We Count: the Need for Congressional Action to Secure the Right to Vote for All Citizens (2019) [https://perma.cc/2XXZ-3N54] (citing Nina Perales, Luis Figueroa & Criselda G. Rivas, Voting Rights in Texas: 1982-2006, 17 S. CAL. REV. L. & SOC. JUST. 713, 713 (2008), See Chinese Exclusion Act of 1882, ch. 126, 22 Stat. 58, 58-61 (repealed 1943) (prohibiting immigration of Chinese laborers); Immigration Act of 1917, ch. 29, 39 Stat. 874, 874-98; Immigration Act of 1924, ch. 190, 43 Stat. 153 (repealed 1952) (banning immigration from almost all countries in the Asia-Pacific region); Leti Volpp, Divesting Citizenship: On Asian American History and the Loss of Citizenship Through Marriage, 53 UCLA L. REV. 405, 415 (2005).

^{19.} See, e.g., Martha S. Jones, Vanguard: How Black Women Broke Barriers, Won the Vote, and Insisted on Equality for All. (Basic Books, 2020).

Michigan State University. As a new resident of Alabama, Myrtle Jones felt it was her civic duty to register to vote. She and her husband were members of the Dexter Avenue Baptist Church. Pastored by Dr. Martin Luther King Jr., Dexter's congregants were civically and socially engaged and supported Dr. King's efforts to galvanize blacks to assert their democratic rights and privileges.

Mrs. Jones described her initial voting registration experience as one of intimidation. Alabama imposed a so-called literacy test, which election officials ostensibly designed to ensure that voters were able to read and write. Aware of the stereotypes about African Americans, she dressed professionally to go to the voter registration office. As a stay-athome mother of two preschool-age daughters, Mrs. Jones did not have to take off work or risk being fired. At that time, Alabama required potential voters to read a passage of the Alabama Constitution out loud. After she read without error, the voting official then verbally asked, "How many bubbles are in a bar of soap?" Her answer, "over 100," resulted in failing the Alabama voter literacy test that day. The second time she took the literacy test, no oral question was asked, and Myrtle Pless Jones became a registered voter.²⁰

Literacy tests were also administered outside of Southern states and targeted Mexican-Americans, Chicanos in the Southwest, and Puerto Ricans in the Northeast. Maria Luisa Jimenez, who migrated to the United States from Puerto Rico in 1951, had to take a literacy test in 1966, which was administered by the State University of New York. The certificate read: Be it Known that the person whose name and address are entered herein, having met the requirements prescribed in Section 168 of the Election Law, and rules and regulations of the Regents of the State of New York, and having made the signature appearing herein in the presence of the examiner, is herewith granted a CERTIFICATE OF LITERACY. 21

Literacy tests, grandfather clauses, poll taxes, felon disenfranchisement, and all-white primaries were all prevalent "conniving methods" that prevented Blacks from registering and accessing the right to vote. It was state laws throughout the South and other parts of the country that barred people of color from the voting booth.

<u>Federal Legislation</u>. The Voting Rights Act of 1965 and its later iterations allowed people of color to register and vote in jurisdictions where they had previously been forbidden from exercising that right.²² Although the Civil Rights Act of 1957²³ created the U.S. Commission on Civil Rights, a Civil Rights Section with an Assistant Attorney General, and the ability to bring

Daniels, Uncounted, p. 21-22. (Recounted by Mrs. Jones's daughter, Cassandra Jones Havard, October 7, 2018.)
 Id. at 172-173. (Interview with Losmin Jimenez, June 2018. (Certificate issued by the University of the State of New York, The State Education Department is in Attorney Jimenez's possession.)

^{22.} See, e.g., Brian K. Landsberg, Free at Last to Vote: The Alabama Origins of the 1965 Voting Rights Act, 187, University Press of Kansas, 2007 ("...the eight years from 1957 to 1965 seemed interminable. The failures of enforcement were maddening. Two presidential elections had come and gone in which hundreds of thousands of [B]lack citizens had been barred from voting. The 1957, 1960, and 1967 Acts could have led to a break from the pattern of racial discrimination in registration, but the state and local politics of the day combined with the natural preference for the status quo to produce resistance to compliance.")

^{23.} Civil Rights Act of 1957, Pub. L. 85-315, 71 STAT. 634 (codified as amended at 42 U.S.C. Section1995 (2006).

discrimination cases in federal courts, the Attorney General of the United States found that the Civil Rights Act and the constitutional amendments were still not enough to prevent the widespread discrimination in the South. Attorney General Katzenbach had requested authority to abandon "case-by-case litigation against voting discrimination." In South Carolina v. Katzenbach, the Court found that "[v]oting suits are unusually onerous to prepare, sometimes requiring as many as 6,000 man-hours spent combing through registration records in preparation for trial. Litigation has been exceedingly slow, in part because of the ample opportunities for delay afforded voting officials and others involved in the proceedings." Election officials often ignored or subverted the existing civil rights laws, thus, highlighting the need for federal intervention.

The VRA opened the gates for free and fair access to the polls. The Voting Rights Act of 1965 is considered one of the most important and effective pieces of congressional legislation in United States history. The outlawed practices such as literacy tests, empowered federal registrars to register citizens to vote, and gave the Attorney General the power to bring extensive litigation instead of the piecemeal approach of the past. Congress gave the attorney general the authority to investigate and prosecute voting discrimination throughout the United States and its territories, conduct administrative review of changes in voting practices and procedures in certain jurisdictions, and monitor elections in various parts of the country. The act prohibits discrimination based on race, color, national origin, or language-minority status. Its impact was extensive, and the ability to provide federal registrars and observers in places like Louisiana, Mississippi, and Alabama helped to eliminate wide gaps between black and white voter registrations.

It was apparent that the disenfranchising methods that persisted from the constitutional conventions of the early twentieth century and continued throughout the South and Southwest needed congressional action to prevent their unrelenting threat to democracy.²⁸ The need for the VRA was clear. After enactment of the Voting Rights Act of 1965, much like after the passage of the Civil War Amendments, African American voter registration²⁹ and the number of African American elected officials began to rise.³⁰

^{24.} See South Carolina v. Katzenbach, 383 U.S. 301, 313 (1966).

²⁵ Id. Katzenbach at 314.

²⁶ See id. at 315 ("The litigation in Dallas County took more than 4 years to open the door to the exercise of constitutional rights conferred almost a century ago. The problem on a national scale is that the difficulties experienced in suits in Dallas County have been encountered over and over again under existing voting laws. Four years is too long. The burden is too heavy—the wrong to our citizens is too sometime the damage to our national conscience is too great not to adopt more effective measures than exist today.").

²⁷ President Lyndon B. Johnson called the Voting Rights Act of 1965 "one of the most monumental laws in the entire history of American freedom." DAVID J. GARROW, PROTEST AT SELMA: MARTIN LUTHER KING, JR., AND THE VOTING RIGHTS ACT OF 1965, at 132 (1978).

^{28.} See, e.g., Gilda R. Daniels, Uncounted: The Crisis of Voter Suppression in America 20-23 (NYU Press, 2020) (for firsthand accounts of these disenfranchising methods during the 1950s and 1960s).

²⁹ See, e.g., BERNARD GROFMAN, LISA HANDLEY & RICHARD G. NIEMI, MINORITY REPRESENTATION AND THE QUEST FOR VOTING EQUALITY 23–24 (1992) (indicating that the gap between white and African American voters decreased significantly and in some instances disappeared in some southern states between 1965 and 1988).
³⁰ The number of African American elected officials stood at 1,469 in 1970. In 2000, 9.040 African Americans held elected office in the United States. See DAVID BOSTIS, BLACK ELECTED OFFICIALS: A STATISTICAL SUMMARY, 2000, at 5 (2002), www.jointcenter.org.

The Voting Rights Act included two primary provisions: Section 2 and Section 5. Section 2 of the Act provides a nationwide prohibition against discrimination in voting.³¹ It is primarily a litigation tool and reactive, meaning that the action begins after the passage of legislation or implementation. Section 5 of the VRA, originally a temporary provision requiring periodic Congressional reauthorization, required "covered jurisdictions" to submit all voting changes to either the U.S. Attorney General or the District of Columbia District Court.³² In any given year, the Department of Justice would receive thousands of submissions that included tens of thousands of changes, and that number would increase substantially during a redistricting period.³³ President Ronald Reagan signed the reauthorization of the VRA in 1982 and remarked on its necessity stating:

"To so many of our people—our Americans of Mexican descent, our [B]lack Americans—this measure is as important symbolically as it is practically. It says to every individual, "Your vote is equal; your vote is meaningful; your vote is your constitutional right . . . the right to vote is the crown jewel of American liberties, and we will not see its luster diminished." ³⁴

Indeed, the dismal voter registration rates pre-1965 served as evidence that the land of the free and home of the brave had fallen far short of its democratic ideals. In short order, the VRA began to dismantle the vestiges of voter suppression. Voter registration rates increased among voters of color, as did the number of elected officials of color.³⁵ The VRA, particularly Section 5, forced the country to live up to its democratic principles. Although the Act enjoyed wide bipartisan support through each of its reauthorizations, it continued to endure challenges to its constitutionality.³⁶

In 2013, the United States Supreme Court decided *Shelby County v. Holder*, ³⁷ and dismantled the VRA's preemptive protection in Section 5. In *Shelby*, the U.S. Supreme Court decided that the triggering mechanism in Section 4 was outdated, and as such unconstitutional. Without a mechanism to determine which jurisdictions were covered, Section 5 ceased to exist. Accordingly, covered jurisdictions no longer must seek federal approval of voting changes. Consequently, since *Shelby County* and the elimination of preemptive federal protections under the Voting Rights Act, previously covered states have instituted suppressive measures impacting

^{31 52} U.S.C. § 10301.

³² 52 U.S.C. § 10304.

³³ About Section 5 of the Voting Rights Act, Department of Justice, https://www.justice.gov/crt/statutes-enforced-voting-section#vra [https://perma.cc/N7MZ-KMCN] ("Over the last decade, the Attorney General received between 4,500 and 5,500 Section 5 submissions, and reviewed between 14,000 and 20,000 voting changes, per year.")

^{34.} President Ronald Reagan, Remarks on Signing the Voting Rights Act Amendments of 1982, June 29, 1982, found at: https://www.presidency.ucsb.edu/documents/remarks-signing-the-voting-rights-act-amendments-1982 [https://perma.cc/DNL3-8Y74]

³⁵ See, Tables 5.1 and 5.2, Daniels, *Uncounted*, pp. 124 and 127.

³⁶ See, e.g., South Carolina v. Katzenbach (1966)(challenging the constitutionality of Section 5 and finding that the coverage formula "evolved to describe these areas [and] was relevant to the problem of voting discrimination."); NAMUDNO v. Holder (2009)(challenging the constitutionality of Section 5, where the Supreme Court upheld the provision and expanded the bailout provision.); Shelby County, AL v. Holder (2013)(finding Section 4 of the Act unconstitutional.)

^{37 570} U.S. 529 (2013)

the right to vote.³⁸ This resurgence is similar to the regression in the post-reconstruction era, where forces were determined to "redeem" the country from the newly enfranchised voters and return it to a more restrictive voting regime that disenfranchised voters of color.

Clearly, the Court's decision in *Shelby* eliminated a key weapon in the voting rights arsenal. Section 5 served as a safeguard for discriminatory voting changes.³⁹ It was an important prophylactic that prevented jurisdictions from implementing laws that harmed minority voters. It provided important oversight for voting changes and practices. It prevented jurisdictions from implementing laws without providing notice to minority communities. Without Section 5, jurisdictions are free to pass and put laws into place without considering the impact on its citizens. These laws go into practice and civil rights groups are burdened with the responsibility of learning of these changes that were once routinely submitted to the federal government. More importantly, these legal challenges happen after the changes have occurred not before as under Section 5. Importantly, without Section5, the primary tool to combat voter suppression is Section 2. Although Section 2 is a nationwide prohibition against discrimination, it is litigation, which is expensive and time consuming. The average Section 2 case costs more than a \$1,000,000 and can last more than two years.

II. Life After Shelby: Impact and Burden

The Shelby County v. Holder decision sounded the alarm for legislatures to once again pass laws that would make access to the right to vote harder and impede the ability of voters of color. Some states responded almost immediately to pass restrictive and suppressive legislation that adversely impacted voters of color. For example, in Texas, within hours of the Shelby decision, then Attorney General Abbot declared that the state would implement its restrictive voter ID law. Notwithstanding, that a federal court had ruled that the same Texas law could not receive Section 5 preclearance due to its retrogressive effects on voters of color. Courts have subsequently found the Texas voter ID law intentionally discriminatory. Citing its discriminatory impact on African American and Latinx voters – the court found that over 600,000 people lacked the ID needed to vote. Weeks after the Shelby ruling, North Carolina - where the Department of Justice had objected to more than 150 voting practices under the pre-Shelby provisions of the Voting Rights Act – passed the nation's most wide-sweeping voter suppression law, eliminating positive measures responsible for expanding access to voters of color. 40 In a legal challenge to that law brought by Advancement Project and others, a federal appeals court also found North Carolina's omnibus legislation intentionally discriminatory, and that North Carolina had acted "with almost surgical precision" to eliminate voters of color. 41 States respond to voters of color exercise of

³⁸ Theodore R. Johnson & Max Feldman, *The New Voter Suppression*, (Jan. 16, 2020), www.brennancenter.org. <a href="https://perma.ce/L6C3-9SLP]. "Over the past decade, half the states in the nation have placed new, direct burdens on people's right to vote, abetted by a 2013 Supreme Court decision that struck down a key provision of the Voting Rights Act. And the racial cause and effect of these seemingly race-neutral laws are hard to escape."

³⁸ Devided Cited Life indeed Provincess Practices Visition Plants: First Control of Append 7, 2013)

³⁹ Daniels, Gilda, Unfinished Business: Protecting Voting Rights in the Twenty-First Century (August 7, 2013). Available at SSRN: https://srm.com/abstract=2405974 or https://srm.com/abstract=2405974 or https://srm.com/abstract=2405974 or https://dx.doi.org/10.2139/ssrm.2405974

⁴⁰ HB589 (NC 2013), http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H589v8.pdf. The law eliminated a week of early voting, a practice used by 70 percent of the state's African American voters, imposed a photo ID requirement, and eliminated same day registration, out of precinct voting, straight ticket voting and even preregistration of 16 and 17-year olds.

⁴¹ North Carolina State Conference of the NAACP v. McCrory, 831 F.3d 204 (2016)

the franchise with restrictive laws. Since *Shelby*, a weakened VRA allows states to engage in the process of voter suppression without consequence.

a. The Disproportionate Impact on Voters of Color

Advancement Project has chronicled the Shelby-effect on communities of color. In 2013, Advancement Project and the Lawyers' Committee for Civil Rights Under Law published Lining Up: Ensuring Equal Access to the Right to Vote which comprehensively analyzed the experience of voters of color in the 2012 election and highlighted the extensive efforts of the two civil rights organizations and their labor to combat restrictive voter ID laws, challenges at the polls, deception and intimidation, "show-me-your-papers" proof-of-citizenship practices, unacceptably long lines, and the troubling use of provisional ballots. The joint report details the post-Shelby landscape of the right to vote, in which states with the worst records of voter discrimination no longer have to submit voting changes for federal review. Many of those states, previously covered by Section 5, acted swiftly to push new voting restrictions that disproportionately targeted people of color. Without the full protections of Section 5's review process, those actions - including voter education campaigns, direct advocacy to election administration officials, poll monitor trainings, deploying staff and volunteers to the polls during early voting and on Election Day to resolve problems encountered by voters, and steadfast litigation - are a preview of the extraordinary work, and redoubled, in more states to combat the new flood of discriminatory voting changes and barriers to democratic participation. 42

An excerpt from the Long Lines report:

• "In Florida, due to the cuts in early voting, Sonia Gibson and her children waited 19 hours to vote. Due to the long lines, Ms. Gibson, an African-American teacher in Palm Beach County, FL, who voted during early voting with her two young-adult children, was forced to come to the polls on two different days. She testified before the Presidential Commission on Election Administration in Miami on June 28, 2013, that she is not sure if her young-adult children would have been able to wait for 19 hours to vote if it were not for her convincing them. She believes that instead of having to wait many hours to vote, elections should be improved so that the citizens of Florida "can celebrate our constitution and our democracy." One study estimated that more than 200,000 voters in Florida did not vote in 2012 because of long lines." 43

These kinds of restrictions hinder the right to vote and increase the cost of voting in communities of color.

After conducting a series of People's Hearings highlighting the impact of a post-Shelby world, Advancement Project and The Racial Equity Anchors Collaborative⁴⁴, a coalition of nine leading national racial justice and civil rights organizations published a report We Vote, We

⁴² Gilda Daniels, Lining Up: Ensuring Equal Access to the Right to Vote (2013) available at https://advancementproject.org/resources/lining-ensuring-equal-access-right-vote/.

⁴³ Id., at 24 (internal citations omitted).

⁴⁴ The members of the Racial Equity Anchors Collaborative are Advancement Project, Asian & Pacific Islander American Health Forum, Dēmos, Faith in Action, National Association for the Advancement of Colored People, National Congress of American Indians, National Urban League, Race Forward, and UnidosUS.

Count: The Need for Congressional Action to Secure the Right to Vote for All that centers around the voices of people of color and describes accounts of voter interference which disproportionately affects communities of color. The 2019 report includes testimonies demonstrating how voter suppression manifests across the country. Voters testified to onerous and confusing limitations to access the ballot, limitations that disproportionately impact voters of color, including: an increase in the number of voting rights violations since the Shelby decision; an increase in the costs and burdens to access the right to vote; an increase in the costs of litigating violations of the voting rights act; evidence of discrimination in voting. 45

In the post-Shelby era, voters of color face renewed barriers to casting a ballot. The following are highlights from testimonials gathered since the Shelby decision in various reports published by the Advancement Project in collaboration with other organizations fighting for free, fair, and nondiscriminatory access to the right to vote.

Access Issues: Voter ID laws

- North Carolina. During testimony at the North Carolina People's Hearing (2019), people spoke about North Carolina's voter identification law enacted in 2013. Witnesses described this law as "the strictest discriminatory photo voter ID law in the nation" and the "monster voter suppression law" (We Vote, We Count, 24-25)
 - Witnesses further testified that in addition its controversial voter ID law, North Carolina simultaneously eliminated same day registration, safeguards to protect out-of-precinct voting, and a week of early voting.
- Alabama. During the Alabama People's Hearing, commissioner Sheila Tyson testified "Alabama passed a strict ID requirement, hurting over 300,000 voters. Did not care that a fourth of those 300,000 people did not have cars. They knew exactly what they were doing when they did it... When they closed down the 31 ID spots, it wasn't just an ID or voter's ID, it was a driver's license. You have to drive four hours to get a driver's license but you can't vote without a driver's license or some type of state ID. But then you turn around and close [the voter ID offices]."48
 - Other field hearing testimony pointed out that Alabama's closure of "thirty-one DMV offices" could not be separated from issues of race and class because many of the closed facilities were in primarily Black and primarily poor counties and that "confusion among poll workers over what constituted proper identification" added other burdens to voters seeking to comply with the strict voter ID law.⁴⁹
- North Dakota. In North Dakota, a burdensome voter ID law was enacted that required voters to show photo identification that includes their name, birth date, and residential street address. This law disproportionately impacts Native voters living on reservations where they do not have residential street addresses. Additionally, Native voters are on average less likely to have electricity, phone lines, or bank accounts needed for the requisite documentation. Native voters also report being unduly burdened by the cost of

⁴⁵ Gilda Daniels, Tyson King-Meadows, Loren Henderson, We Vote, We Count: the Need for Congressional Action to Secure the Right to Vote for All Citizens (2019) available at https://advancementproject.org/resources/wevotewecount/

⁴⁶ Caitlin Swain, Co-Director, Forward Justice, Testimony at the North Carolina People's Hearing (2019).

⁴⁷ Dr. Rev. Barber, Testimony at the North Carolina People's Hearing (2019).

⁴⁸ Sheila Tyson, Jefferson Cty. Comm'r., Dist. 2, Testimony at the Alabama People's Hearing (2019).

⁴⁹ Witness Testimony, Testimony at the Alabama People's Hearing (2019).

traveling long distances, particularly given the high poverty rates on many reservations to obtain state identification. 50

Witnesses at the field hearings reported that poll workers were rejecting "lifelong" Native voters that they had known "their entire lives," and whom they were previously permitted to vouch for if questions arose about the identity of the voter. Witnesses characterized the North Dakota voter ID law as carrying an "anti-Indian undertone," objecting to certain forms of identifications in a manner that was "incorrect as a matter of law." Witnesses reported, for example, that poll workers had rejected federal passports and military identifications as inadequate photo-based proof of a voter's identity.⁵¹

Method of Election.

These accounts include voter suppression tactics, such as vote dilution, racial gerrymandering, and states' failure to comply with federal voting law.

- Texas. Mimi Marziani, Chairwoman of the Texas Advisory Committee to the U.S. Commission on Civil Rights, testified that "Texas has been refusing... to comply with federal voter registration law, namely the Motor Voter Act" which requires state governments to allow mail-in voter registration and to provide eligible people with voter registration opportunities at drivers' license agencies, public assistance agencies, and disability agencies. Marziani stated this failure to comply resulted in 1.5 million Texans a year unable to update their license online and thus miss their opportunity to register to vote. This especially impacts frequent movers, who tend to be poorer and younger and thus more likely to be people of color, because it means that as they move, they are no longer registered at their current address. 52
- North Dakota. In North Dakota, District 27 Representative Ruth Buffalo testified about Native Peoples' experience with vote dilution stating, "Tribal citizens make up 31.8% of the district despite there being a sizeable Native American population. 5, 632 members currently live on the Fort Berthold Reservation, with another 3,655 living in close proximity, yet there are no majority Native American districts... If maps were drawn another way, Native Americans could easily support their own district. In fact, the dilution of the Native vote is even more outrageous if you look at the counties. There are six counties that intersect the Fort Berthold Reservation, ensuring no Native American representation among county seats."⁵³
- North Carolina. In North Carolina, Patricia Timmons-Goodson, Vice Chair of the United States Commission on Civil Rights, testified that that the community member recollected that the General Assembly "split" a majority black voting precinct "down the middle." The precinct was located in North Carolina Agricultural and Technical State University, a historically black college with a deep history of civil rights activism. "One part of the

⁵⁰ We Vote, We Count: The Need for Congressional Action to Secure the Right to Vote for All Citizens (2019) at 26.

⁵¹ Witness Testimony, Testimony at the North Dakota People's Hearing (2019).

⁵² Mimi Marziani, Chairwoman, Texas Advisory Comm. to the U.S. Comm'n on Civil Rights, Testimony at the Texas People's Hearing (2019).

⁵³ Ruth Buffalo, N.D. State Representative, 27th District, Testimony at the North Dakota People's Hearing (2019).

campus was in one district and the other part in another part of the district," recalled the community member. 54

b. Disproportionate Burden to Access the Right to Vote

Voters of color encounter a plethora of problems in their attempt to exercise their right to vote. When polling places close or other barriers are erected to access the right to vote, the burden and cost of voting increases tremendously in communities of color. Since the *Shelby* decision, voters of color have been increasingly harmed by polling site closures, language access barriers, states' failure to comply with the ADA, financial barriers to voting, and lack of transparency on voting law changes among many other voter suppression tactics. These tactics force voters to travel long distances to register or to cast a ballot, exacerbate financial burdens on voters of color, and leave low-income voters and voters of color unduly burdened with changing polling locations because they are more likely to move than their counterparts. These tactics also exacerbate the disenfranchisement of incarcerated and formerly incarcerated people. All of this leads to confusion, frustration, and the reduced likelihood of voting because of the difficulty in locating one's polling location.

- Ohio. Daniel Ortiz, Outreach Director for Policy Matters Ohio, testified that since 2012, Ohio closed more than 300 polling locations across the state, a disproportionate number in urban areas, noting that "Cuyahoga County Board of Elections [reports] show in that time period there were closures that eliminated 78 polling locations in Ohio's second largest county."
 - Mike Brickner, Ohio State Director for All Voting is Local, testified that between 2016 and 2018, Cuyahoga County "eliminated 41 polling locations and nearly 16 percent of all precincts changed location," harming a majority of Black communities. ⁵⁶ Brickner went on to note the effects on Cleveland, wherein eight of the 17 wards are majority Black and comprise between 72 and 98 percent of the population: "Of the city's 45 precincts with polling place changes, the majority, 29, were in black majority wards, while only 16 were in black minority wards." ⁵⁷
 - o In Ohio, Angela Woodson, Political Action Chair for the Cleveland Branch of the NAACP, for example, testified: "It seems like every election cycle, at least two to three voting precincts move. We're noticing this is very consistent in the governor's race as well as the presidential election," noting these moved occurred in "low-income African American wards." 58
- Alabama. A Black woman who testified anonymously during the Alabama People's
 Hearings described feeling confused about where her polling location was located after

⁵⁴ Patricia Timmons-Goodson, Vice Chair, United States Comm'n on Civil Rights, Testimony at the North Carolina People's Hearing (2019).

⁵⁵ Daniel Ortiz, Outreach Dir., Policy Matters Ohio, Testimony at the Ohio People's Hearing (2019).

Mike Brickner, Ohio State Dir., All Voting is Local, Testimony at the Ohio People's Hearing (2019).
 Mike Brickner, Ohio State Dir., All Voting is Local, Testimony at the Ohio People's Hearing (2019).

⁵⁸ Angela Woodson, Political Action Chair, Cleveland Branch of the NAACP, Testimony at the Ohio People's Hearing (2019).

having moved. She remarked, "Now the problem that I'm having is where to go vote, where to go register. That's the problem that I'm having."5

Early Voting & Mail-in Ballot Restrictions

- Georgia State Rep. Barry Fleming (R), chair of a newly created Special Committee on Election Integrity, introduced a bill February 2021 that aimed to eliminate all early voting on Sundays — thus eliminating "souls to the polls," a get-out-the-vote initiative popular with the state's predominantly Black churches. 60
 - o In the November 2020 general election, Black voters in Georgia used early voting on weekends at a higher rate than whites in 43 of 50 of the state's largest counties. Black voters make up roughly 30% of Georgia's electorate, but comprised 36.7% of Sunday voters in 2020 and 36.4% of voters on early voting days. 61
 - o Early Weekend voting statistics compiled by the Center for New Data in Georgia:62
 - 264,511 Georgians voted on weekends, accounting for 10% of all GA
 - In 100 of Georgia's 159 counties, Hispanic Americans voted on weekends at higher rates (relative to early vote weekday votes) than white voters in the same county.
 - 107 counties showed African Americans voting on weekends at higher rates than voters identifying as white in the same county
 - Individuals identifying as white were the least likely to cast their vote on weekends (8.6%), compared to those identifying as Asian (13.1%), African-American (11.8%), and Hispanic (11.4%) (see county-level measures on A.6.).
 - Weekend closures would likely disproportionately burden Georgians with less flexibility around work schedules or other weekday commitments.
- Souls to the Polls was created to build a voting bloc of African American people living in Milwaukee's low income community. This mission was grounded in the churches that help sustain inner city neighborhoods." 63 Organizers with Souls to the Polls (Sttp) Milwaukee faced serious challenges with carrying out their voter campaigns in 2020 after COVID changed everything and forced churches to close.⁶⁴ Not only this, but

⁵⁹ Witness Testimony, Testimony at the Alabama People's Hearing (2019).

⁶⁰ Eugene Scott, New Georgia legislation would curb 'souls to the polls,' (Washington Post, February 24, 2021).

⁶¹ Ari Berman, Georgia Republicans Are Doubling Down on Racist Voter Suppression.

https://www.motherjones.com/politics/2021/02/georgia-republicans-voter-suppression-bill/
⁶² The Center for New Data, Access to the Polls in Georgia: Assessment of Early Vote Wait Times in the General Election and Potential Effects of Voting Restrictions in the Runoff (December 2020) 6, available at

https://docs.google.com/document/d/1ttCb9zRiyU5s_icUEUGe7vq1TVsygcamAKap7YG42ks/edit#heading=h.cxk

⁸rwei9a2b or https://www.newdata.org/ga-analysis

63 Souls to the Polls Milwaukee, *Annual Report* at https://soulstothepollsmke.org/annual-report/.

64 Souls to the Polls Milwaukee, *Annual Report* at https://soulstothepollsmke.org/annual-report/.

62 Couls to the Polls Milwaukee, *Annual Report* at https://soulstothepollsmke.org/annual-report/.

63 Couls to the Polls Milwaukee, *Annual Report* at https://soulstothepollsmke.org/annual-report/. 30,000 homes, contacted 32,000 individuals and reached over 2 million people via multiple media forms to build voter understanding and participation in the 2020 elections. SttP organized ministers and congregations to fight voter suppression, partner with Black Lives Matter, work to protect the community from COVID and Light Up

organizers were also up against Wisconsin's Republican-led legislature which planned to purge over 200,000 names from voter rolls and stopped the Governor from implementing an all-mail election using absentee ballots due to COVID. Although SttP and its partners sued, the court sided with Wisconsin's conservative legislators, forcing voters to wait hours in long lines, in the rain and unprotected from COVID. SttP was, however, able to delay the deadline for absentee ballots, which allowed for over 113,000 of these votes to be counted.⁶⁵

- Tennessee has some of the strictest laws when it comes to absentee voting. Under Tennessee law, unless a registered voter falls into one of 14 narrowly defined categories they may not vote by mail. (T.C.A. § 2-6-201) None of those 14 categories appears to encompass individuals who are (1) under the age of 60, and (2) wish to vote by mail because of a fear that voting in person, whether early or on election day, might expose them or someone they live with, to COVID-19. For such voters, the only options are to either risk their health and vote in person, or to not vote at all. Tennessee also criminalizes aiding voters in obtaining an absentee ballot application, making it a Class E felony if you do so."66 One of the most alarming aspects of Tennessee's law is that mail ballots are rejected at a rate nearly twice as high as ballots cast in person. One way to reduce the rejection rate is to make sure ballots are not rejected for inadvertent mistakes on the absentee ballot envelope. Tennessee law provides no opportunity to correct mistakes on mail ballot envelopes. Given that only 2% of the voting population utilized absentee voting in a previous election, the surge in absentee ballots due to the pandemic is likely to result in a high rate of mistakes due to inexperience.
- Texas. Mimi Marziani, Chairwoman of the Texas Advisory Committee to the U.S. Commission on Civil Rights, testified that "Texas has been refusing... to comply with federal voter registration law, namely the Motor Voter Act" which requires state governments to allow mail-in voter registration and to provide eligible people with voter registration opportunities at drivers' license agencies, public assistance agencies, and disability agencies. Marziani stated this failure to comply resulted in 1.5 million Texans a year unable to update their license online and thus miss their opportunity to register to vote. This especially impacts frequent movers, who tend to be poorer and younger and thus more likely to be people of color, because it means that as they move, they are no longer registered at their current address.⁶⁷
 - In 2021, Texas Republicans pushed for legislation they argued would reassure voters elections were "secure." Although they deny the bill is aimed at disenfranchising voters of color, the bill sought to outlaw measures that increased voters of color turnout. For instance, it sought to outlaw two kinds of early voting

Milwaukee in a successful mobilization for November 3rd. The result was a success — 80% of eligible Milwaukee adults made their voices heard and early voting increased by 50%.)

⁶⁵ Souls to the Polls Milwaukee, Annual Report at https://soulstothepollsmke.org/annual-report/.

⁶⁶ The Equity Alliance, Voting During the Covid-19 Pandemic, available at https://theequityalliance.org/covid19vote/

⁶⁷ Mimi Marziani, Chairwoman, Texas Advisory Comm. to the U.S. Comm'n on Civil Rights, Testimony at the Texas People's Hearing (2019).

⁶⁸ Amy Gardner, How The Texas Voting Bill Would Have Created Hurdles For Voters Of Color, (The Washington Post, May 31, 2021), available at https://www.washingtonpost.com/politics/2021/05/30/texas-voting-law/.

methods established last year in Harris County, home of Houston, to give voters more opportunities to vote safely and crowd-free during the pandemic: drive-up voting and 24-hour voting. 130,000 voters took advantage of drive-through voting and an additional 10,000 ballots were cast during the 24-hour voting marathon. Chris Hollins, who oversaw these programs last year, states that data on the Harris County vote showed voters of color made up more than half of those who used drive-through early voting and the 24-hour early-voting window. "That was a higher share than in early voting overall, when Black and Latino voters accounted for just 38 percent of all voters," he said.⁶⁹

<u>Disabilities and Accessing the Right to Vote.</u> The following are from testimonials regarding the intersecting barriers voters of color with disabilities face.

- Alabama. Polling site closures and the consolidation of precincts exacerbate burdens to vote for disabled voters, many of whom are denied ballot access. At the Alabama People's Hearing, Scott Douglas, Executive Director of Greater Birmingham Ministries, highlighted the story of habitual voter Elizabeth Ware, a Black woman on Social Security disability benefits who lost her non-driving photo ID and had limited transportation and financial options available to obtain a photo ID in compliance with Alabama's strict voter ID law. Ware's disability made it painful for her to walk five blocks to the nearest bus stop, and she did not have reliable car transportation. Douglas commented, "the nearest license commission where she could have gone to get an ID was not in walking distance, and a ride costs 20 bucks, a significant amount for somebody on her income. She was finally able to get a ride to the Board of Registrars where she attempted to get a free voter ID card. However, she was wrongly denied the ID by a staff member who had been improperly trained and told her that she had an ID in the past." Ware was also a plaintiff in litigation challenging Alabama's photo ID law.
- Wisconsin. "In Wisconsin, Mary McClintock, a wheelchair-bound voter had to take three trips via para-transit vans to the downtown DMV offices to obtain her photo ID to vote. In Missouri, Emmanuel Aziz, who has multiple sclerosis and is confined to a wheelchair, challenged the state's proposed photo ID ballot initiative. While he has an expired Missouri driver's license and an expired passport, he has no means to renew them, nor any need to. He resides in a skilled nursing facility and does not have ready access to transportation. The cost of obtaining the underlying documents necessary to procure a new state identification would pose a significant hardship on him in getting to the offices necessary to get a certified copy of his birth certificate, obtaining a new identification and the costs for the documents."

Amy Gardner, How The Texas Voting Bill Would Have Created Hurdles For Voters Of Color, (The Washington Post, May 31, 2021), available at https://www.washingtonpost.com/politics/2021/05/30/texas-voting-law/.
 Scott Douglas, Executive Dir., Greater Birmingham Ministries, Testimony at the Alabama People's Hearing (2019)

Advancement Project and the Lawyers' Committee for Civil Rights Under Law, Lining Up: Ensuring Equal Access to the Right to Vote (2013) available at https://advancementproject.org/resources/lining-ensuring-equal-access-right-vote/ at 16 (internal citations omitted).

Felon Disenfranchisement

Felon Disenfranchisement remains as one of the vestiges of post-Reconstruction, Jim Crow disenfranchisement mechanisms. Across the country, more than 5.2 million people are unable to participate in the electoral process due to a previous felony conviction. Advancement Project has championed rights of restoration efforts in many states, including, Florida, Virginia, Louisiana, Mississippi, Wisconsin, Tennessee, and others. In 2021, we released a report entitled, *Our Voices, Our Votes: Felony Disenfranchisement and Re-entry in Mississippi* with our state partners, One Voice and Missispip Votes. The report analyzes how Mississippi silences those with prior felony convictions and creates reentry barriers for returning citizens. Indeed, Mississippi has one of the most difficult systems to navigate the restoration process, requiring a vote from both houses of the state legislature. Using statistics, national data, and personal stories from directly impacted Mississippians, the report illuminates what people with felony convictions must endure. The report details how the state's Jim Crow legacy not only fails to assist returning citizens, but permanently disenfranchises them.

For many returning citizens, the lack of notice cripples the restoration process. The following quotes from formerly incarcerated people speaking on the lack of notice they received about their voting rights, giving a glimpse to some of the ways incarcerated people are made more vulnerable by changes in voting laws. These can also be found in *Our Voices, Our Votes: Felony Disenfranchisement and Re-entry in Mississippi.* ⁷³

- "I am currently registered to vote. I was not an active voter before I was incarcerated; I was 16 years of age at that time. I knew that at the age of 18 I could vote, but once I was released from prison there was nothing shared with me about my voting rights." Michael Vardaman
- "Before I was incarcerated, I was a voter. When I was convicted, I did not know about my voting rights. I only found out about my voting rights when I was released. I feel that voting is the best thing because you can make a change." - Kartrell Terry
- The following is an excerpt from the story of Denise "Nissi" Coleman, a Black woman who was incarcerated for 38 years on two life sentences. "Reentry is hard because it's a different ball game on the other side of that fence, and they don't prepare you for any of it. They don't give you any resources... I had a very hard time with reentry. My daughter passed away while I was in prison, and I didn't have any family, siblings, or friends left to help me. They didn't prepare me at all for release—no official ID, no social security card, no birth certificate. All you get is a Department of Corrections ID and \$20—and you can't do anything with \$20. You can't stay at a shelter—you need those documents the prison doesn't give you. You don't even get transportation away from the prison. How are you supposed to find a roof to put over your head? How are you supposed to survive and stay free?" 74

⁷² Our Voices, Our Votes: Felony Disenfranchisement and Re-entry in Mississippi (2021) at

^{17.} https://advancementproject.org/resources/our-voices-our-votes/

⁷³ Our Voices, Our Votes: Felony Disenfranchisement and Re-entry in Mississippi (2021) at 17.

⁷⁴ Our Voices, Our Votes: Felony Disenfranchisement and Re-entry in Mississippi (2021) at 19.

With this report and our extensive work in communities of color assisting returning citizens to gain power, we hope to bring awareness to the difficulties in rights of restoration and empower local organizations and impacted persons. The crazy quilt of laws across the country are in dire need of federal intervention to provide uniformity and restoration to eligible persons.

III. Litigating Access to the Right to Vote

In general, 2020 and 2021 saw significant increases in voting rights litigation, due in part to various elections taking place in 2020, and the impact of COVID-19. In 2021, "at least 21 voting cases have been filed in ten states, and Georgia leads the way with eight new lawsuits in 2021." 75 According to the Brennan Center's 2020 Voting Rights Litigation Tracker, there were 82 major post-election cases. 76 And across 45 states, there were an additional 439 significant voting rights litigation cases prior to the election related to "voters' ability to cast their ballots in 2020 — whether through vote-by-mail, early in-person voting, or election day voting at the polls." *Id.* This number "does not include cases pertaining to candidacy issues, ballot initiatives, or redistricting." *Id.*

Georgia. In May 2021, Advancement Project filed a lawsuit on behalf of religious and Latinx organizations challenging Georgia's voting legislation, SB 202, which in part requires voters to provide "identification or sensitive personal information when requesting and casting an absentee ballot." The Concerned Black Clergy v. Raffensperger alleges violations of Section 2 of the Voting Rights Act, the American Disabilities Act, and the 1st, 14th, and 15th Amendments. In this case, several religious and nonprofit organizations brought suit on behalf of the communities they work with, primarily Black Americans and Muslim Americans These organizations were specifically challenging the difficulties brought by the SB 202 vote-by-mail ID requirement, ballot request & receipt period, drop box availability, out-of-precinct policy, food & drink ban, mobile polling place ban, early voting days & hours, and the runoff voting period.

Additionally, another Georgia case, *New Georgia Project v. Raffensperger*, challenged SB 202 for its new voter identification requirements among other components of the law. The plaintiffs' complaint alleges "violations of Section 2 of the Voting Rights Act and the 1st and 14th Amendments to the U.S. Constitution, in that the law has the effect of discriminating against voters on account of race or color and unduly burdens the fundamental right to vote." *Id.* Plaintiffs in this case include the New Georgia Project, Black Voters Matter Fund, and Rise Inc., all civic organizations that support voters of color broadly in voting, as well as other underrepresented or vulnerable groups. ⁷⁸.

<u>Florida</u>. Furthermore, Advancement Project along with other civil rights organizations and on behalf of organizations in Florida filed *Florida Rising Together v. Lee* plaintiffs bring claims under Section 2 of the Voting Rights Act, 1st, 14th and 15th Amendments to the U.S.

⁷⁵Voting Rights Litigation Tracker 2021, BRENNAN CENTER FOR JUSTICE (updated May 28, 2021).

⁷⁶ Voting Rights Litigation Tracker 2020, BRENNAN CENTER FOR JUSTICE (updated May 28, 2021).

⁷⁸ Amended Complaint, New Georgia Project v. Raffensperger, No. 1:21-cv-1229 (N.D. Ga.), https://storage.courtlistener.com/recap/gov.uscourts.gand.288457/gov.uscourts.gand.288457.1.0 1.pdf

Constitution.⁷⁹ Specifically, this case challenges Florida's Senate Bill 90 which "imposes additional identification requirements for requesting an absentee ballot, requires voters to submit new absentee ballot applications every general election cycle, restricts the use of ballot drop boxes, and criminally prohibits churches and other organizations from "influencing" voters waiting in line at the polling place, thus effectively banning organizations and individuals from handing out water and snacks to voters waiting in line." Another Florida case, *Florida State Conference of the NAACP v. Lee*, also challenges Florida's SB 90 under Section 2 of the Voting Rights Act, the 1st, 14th, and 15th Amendments. Plaintiff's here are also various civic groups bringing suit on behalf of the individuals and communities they serve. *Id.* Plaintiff's in this case are various civic organizations that help individual communities vote, but plaintiff accounts attest to the impact this law would have on minority populations.⁸⁰

Multilingual Voting Materials. In addition, changes in providing multilingual voting materials were also challenged in 2020 and 2021. In Asian Americans Advancing Justice-Atlanta (AAAJ-Atlanta) v. Raffensperger, AAAJ-Atlanta brought claims alleging violations of Section 2 of the Voting Rights Act (intentional racial discrimination and discriminatory results), 14th and 15th Amendment Violations (intentional racial discrimination), 1st and 14th Amendment (undue burden on right to vote). Overall, this case is challenging SB 202 in Georgia which "dramatically reduces the time during which voters may request and return absentee-by-mail ballots, eliminates drop-off locations, bars local and state officials from proactively mailing absentee ballot applications, imposes new, burdensome voter identification requirements, and criminalizes certain handling and return of completed absentee ballot applications."81 Because of efforts by organizations like AAAJ- Atlanta, AAPI voters were able to turn out in record numbers during the past election. The AAPI community often has lower voter turnout than other minority groups due to "linguistic isolation and limited English proficiency."82 AAPI voters also rely disproportionately on absentee ballots in Georgia, and requested absentee ballots over the average amount in the 10 days before the General Election Day. Plaintiff accounts demonstrate the importance of absentee ballots, and other voting supports, in assisting limited English proficient individuals and households during the voting process. For example, in this case, Steven Paik is a 69-year-old Korean American, and registered in Gwinnett County. His first-time voting was the General Election in 2020.83

<u>Challenging Voting Location Reductions, Consolidations and Relocations.</u> Various states have implemented changes that reduce, consolidate, or relocate voting locations and thus constitute a burden on many voters in regard to casting their vote.

Arizona. In Maricopa County, Arizona, there were reduced voting locations for the March 22, 2016, presidential preference election (PPE) and thousands of voters were forced to wait in

⁷⁹ Florida Rising Together v. Lee, No. 4:21-cv-201 (N.D. Fla. 2021),

https://storage.courtlistener.com/recap/gov.uscourts.flnd.369472/gov.uscourts.flnd.369472.1.0.pdf.

⁸⁰Florida State Conference of the NAACP v. Lee, No. 4:21-cv-187 (N.D. Fla.),

https://storage.courtlistener.com/recap/gov.uscourts.gand.288705/gov.uscourts.gand.288705.27.0.pdf

81 Amended Complaint at 6, Asian Americans Advancing Justice-Atlanta v. Raffensperger, No. 1:21-cv-1333 (N.D. Ga.), https://storage.courtlistener.com/recap/gov.uscourts.gand.288705/gov.uscourts.gand.288705.27.0.pdf

⁸² *Id* at 21. ⁸³ *Id* at 12.

lines for many hours to cast their votes. 84 This was a result of the election officials' decision to focus on cutting costs of PPE by reducing polling locations rather than making sure there were enough locations per eligible voter, and that they were accessible to minority communities. Reduction of voting locations were "particularly burdensome on Maricopa County's Hispanic and African-American communities, many of which had fewer polling locations than Anglo communities and, in some instances, no voting locations at all."85

Louisiana. Additionally, in *Harding v. Edwards*, plaintiffs "sued the Louisiana governor and secretary of state, challenging state laws that restrict absentee voting to those who qualify for a limited number of excuses, require that absentee ballots be signed by a witness, and limit the duration of early voting to seven days." 86 Alleging violations of the 1st and 14th Amendments to the U.S. Constitution, Section 2 of the Voting Rights Act, and Title 2 of the Americans with Disabilities Act, plaintiffs noted that the law enforcement during COVID-19 unduly burdened Black Americans and individuals with disabilities. 87 In a plaintiff account, Jennifer Harding noted significant family responsibilities and health concerns that led to concern over not being able to sufficiently social distance, and exposing elderly parents and other family members to COVID-19 if required to vote in person. 88 In addition, plaintiff Jasmine Pogue is a 33 year old black woman who was diagnosed with asthma – voting in person due to the challenged provisions remaining in place would have put her health at risk, especially due to the disproportionate effect of COVID-19 on Black Louisianans. 89

IV. The Need for Federal Legislation

The Constitution gives Congress the authority to enact "appropriate legislation" to enforce the fundamental right to vote. 90 Congress has authority under the Fourteenth and Fifteenth Amendments to address discrimination in voting and has utilized its powers to address election issues and expand the ability for eligible persons to vote. 91 While approximately two-thirds of eligible Americans cast a ballot in the 2020 election, 92 the United States consistently has abysmal voter turnout. According to Pew Research, the United States voter participation rate ranks thirtieth

⁸⁴ Amended Complaint at 7, Feldman v. Arizona Secretary of State, No. 2:16-cv-1065 (Ariz. D. 2016), https://storage.courtlistener.com/recap/gov.uscourts.azd.976323.12.0.pdf.

⁸⁶ Harding v. Edwards, No. 3:20-cv-495 (M.D. La.), No. 20-30632 (5th Cir.),

https://storage.courtlistener.com/recap/gov.uscourts.lamd.57839/gov.uscourts.lamd.57839.22.0_1.pdf.

⁸⁸ Id at 10.

⁸⁹ Id at 11.

^{90.} Shelby County v. Holder, 570 U.S. at 567 n.2. (Ginsburg, J., dissenting) ("[The Constitution uses the words 'right to vote' in five separate places: the Fourteenth, Fifteenth, Nineteenth, Twenty-Fourth, and Twenty-Sixth Amendments. Each of these Amendments contains the same broad empowerment of Congress to enact 'appropriate legislation' to enforce the protected right. The implication is unmistakable: Under our constitutional structure, Congress holds the lead rein in making the right to vote equally real for all U.S. citizens. These Amendments are in line with the special role assigned to Congress in protecting the integrity of the democratic process in federal elections").

⁹¹ See, e.g., Voting Rights Act of 1965, Pub. L. No. 89-110, § 2, 79 Stat. 437, 437 (1965) (codified as amended at 52 U.S.C. § 10301)

⁹² Olivia B. Waxman, The 2020 Election Set a Record for Voter Turnout. But Why Is It Normal for So Many Americans to Sit Out Elections?, TIME (Nov. 5, 2020, 9:24 AM), https://perma.cc/S7ZM-Z8FS].

of thirty-five advanced democracies. ⁹³ The federal government can take several immediate and impactful steps to make voting easier. Congress must pass legislation that addresses the disproportionate impact and burden on voters of color accessing the right to vote, ⁹⁴ which requires states with a proven history of voter suppression and discrimination, to prove that any changes to their election laws will not disenfranchise voters.

Despite the achievements and expansion of the right to vote in 2020, the country has witnessed an onslaught of anti-democratic measures that seek to limit the number of persons who can cast a ballot. During the 2020 election season, Advancement Project became aware of a number of common problems that voters faced. For example, in Georgia, polling place changes and precinct reassignments (or voter confusion) are one of the more common problems that voters encountered. This is problematic in this state due to the new legislation (SB 202) that invalidates provisional ballots cast in the wrong precinct. Moreover, limitations on when polling places can close or move, or when precincts merge, and more robust notice requirements for when that happens, are key. Notice ideally includes advance outreach to affected voters by local election officials as well as signage and personnel stationed at the old polling place to help redirect people. Without these key components, voters will find that under the new legislation, ballots cast outside of a voter's assigned precinct will not get counted; thus, disenfranchising voters for a lack of information.

It has been proven that expanding early voting, vote by mail ballots, and drop box return options decrease the cost of voting. Evidence exists that under a "cost of voting" analysis, i.e., early voting options, underlying documents, cost of voter identification, etc. that reducing the cost of voting by making these options widely available can help with turnout and smooth election administration. In Virginia, early voting and a vote by mail option increased turnout 575,000 in 2016 to 2.8 million in 2020. 95 This increase is a direct correlation to the expansion of voting opportunities. Congress must address the lack of uniformity in the myriad of ways to cast a ballot and ensure that uniform methods are set and enforced.

Polling place technology can also impact voters' ability to access the right to vote. Indeed, wait times vary for many different reasons, but can sometimes hinge on the functionality of polling place technology. For example, both Georgia and Virginia use electronic pollbooks. Often when the electronic books malfunction, poll workers and voters are left without options. In November 2020, in Georgia, a county-wide electronic pollbook failure resulted in hours-long lines and an extension to polling place hours in Spalding County. Fraining and resourcing poll

⁹³ See Drew DeSilver, In past elections, U.S. trailed most developed countries in voter turnout, PEW RESEARCH CTR, (Nov. 3, 2020), https://www.pewresearch.org/fact-tank/2020/11/03/in-past-elections-u-s-trailed-most-developed-countries-in-voter-turnout/ [https://perma.cc/Y5E2-ZSS2].

⁹⁴ See, e.g., John Lewis Voting Rights Advancement Act, CONGRESS.GOV, https://www.congress.gov/bill/116th-congress/senate-bill/4263 [https://perma.cc/K27K-NANM].

⁹⁵ Here are two websites which make comparisons in Georgia and Virginia for before-and-after various early voting, vote by mail, drop box expansions became available in 2020: Georgia Votes: https://www.georgiavotes.com/2020-general/; VPAP early voting dashboard: https://www.upap.org/elections/early-voting/year-2020/

⁹⁶ See, e.g., https://www.13wmaz.com/article/news/politics/elections/tech-issue-causes-voting-machines-in-spalding-county-to-go-down/85-1aa7d660-a2e3-441a-ab56-1ffeebc5adef; https://www.sbtv.com/news/local/spalding-county-experiencing-county-wide-glitch-bringing-down-voting-machines/EPCVGRSBRFBLTJUVOXJZAIFO2U/.

workers and local election offices in a smart way can help problems like this—including making sure that resourcing is equitable from one community to the next. Some states have banned local election board's ability to seek third party funds to purchase the equipment needed to address these types of access issues; thus, leaving eligible citizens in the dark without a ballot.

Additionally, voter registration continues to serve as a barrier for so many eligible persons. Improvements in this area will make it easier to register and update one's registration and prevent wrong-precinct situations and eliminating eligible persons before they can register. Advancement Project filed suits in Florida and Virginia to address failures in the online voter registration system. In Virginia, during the 48-hour time period for which our consent decree extended the voter registration deadline, over 24,000 more Virginians registered to vote in the November 2020 election. 97

Finally, Congress must adopt an explicit right to vote in the Constitution. Without an affirmative right to vote, states will continue to pass legislation that disenfranchises communities of color. We have experienced this level of opposition to enfranchisement and the utilization of state laws to disenfranchise eligible citizens at the turn of the twentieth century. The impact of those laws remains in areas, such as felon disenfranchisement. Judith Brown-Dianis, Advancement Project's Executive Director has stated, "[T]he right to vote must be an affirmative, explicit, bedrock, individual constitutional right protected by the highest level of judicial scrutiny: strict scrutiny. Under strict scrutiny, states would have to prove – with evidence – that a restrictive law like voter ID is justified by a compelling purpose and is the least restrictive means to achieve that purpose. Hollow claims of "voter fraud" would no longer be acceptable. States would have to prove that "voter fraud" is a real problem that can be addressed only through denying or restricting the right to vote, which is something they cannot do."

In a democracy, the vote, and the ability of eligible persons to exercise the right to vote is central and elections must be conducted fairly, freely, and without discrimination. Only after we achieve these goals will we have a true democracy and experience a more perfect union.

^{97 (}Source: lines 79-80 in the attached SBE minutes)

⁹⁸ <u>Testimony</u> in favor of a #RightToVote Amendment before the 2016 DNC Platform Committee, by Judith Browne Dianis, Executive Director, Advancement Project National Office, June 16, 2016. Found at https://advancementproject.org/wp-content/uploads/2020/08/JBD_DNC_Testimony.pdf

Chairman Butterfield. Thank you very much, Ms. Daniels. At this time, the chair will recognize Ms. Lang for five minutes.

STATEMENT OF DANIELLE LANG

Ms. Lang. Good afternoon, and thank you to the Committee for holding these hearings and the opportunity to testify on these im-

portant matters.

Voting in America today does not occur solely in person on a single Tuesday. Americans routinely vote early in person or by mail. Indeed, for many Americans, including those with disabilities, student voters, elderly voters, voters of color, and low-income voters with unforgiving schedules and limited transportation, these voting

options are a necessary lifeline.

The early in-person voting and vote by mail options are wildly uneven nationwide. While some Americans enjoy a broad range of voting opportunities, others face increasing constraints on their voting options. Early in-person voting access, which ensures that the fundamental right to vote does not hinge on one's schedule on a single day, is an essential component of our voting system. Weekend voting days are particularly crucial for those who cannot afford to lose pay or risk job security to vote during working hours.

And, unsurprisingly, voters of color take advantage of early voting options at higher rates. After all, as you have already heard, they are more likely to face structural barriers to voting on election day and longer wait times at the polls. Further, Black voters have rallied around Sunday voting options to organize highly effective

souls to the polls campaigns.

Early in-person voting is just as secure as election day voting, yet legislators have sought to restrict it when people of color use

it effectively.

In 2011, Florida eliminated a Sunday voting day after 2008 election data showed that Black and Hispanic voters used Sunday voting the most and White voters used Sunday voting the least.

In 2013, North Carolina also eliminated a Sunday voting day because of its disproportionate use by Black voters, leading a court to call it as close to a smoking gun as we are likely to see in modern times.

And in 2014, Ohio eliminated its "Golden Week," an overlapping period of early voting and voter registration, an option that was, once again, most popular with Black voters.

Finally, just this session, both Georgia and Texas legislators pushed, albeit unsuccessfully for now, bills that would eliminate or

severely restrict Sunday voting.

In addition to early voting, we know that equitable vote-by-mail practices increase voter participation. These practices include universal eligibility, reasonable application and submission procedures, and opportunities to correct technical errors. But, once again, Americans fare much—some Americans fare much better than others on this score.

First, while most States can now give all voters the option to vote by mail, 16 States continue to limit access to voters that fit

within rigid criteria, locking most residents out.

Second, the processes for vote by mail can make the option elusive. In Mississippi, a vote-by-mail application has to be notarized. In Alabama, the ballot must be accompanied by a copy of a photo ID and a notary or two witness signatures. In Minnesota, a mail ballot requires the signature from another registered Minnesota voter, an obvious hurdle for out-of-State voters. In fact, we have seen students take to Twitter to try to find Minnesotans in their area to witness their ballots.

Third, States have restricted access to secure ballot drop boxes. Last year, about 41 percent of mail-in voters chose to use drop boxes, yet Texas and Ohio both moved to limit drop boxes to one per county. Predictably, this hit large urban counties with the highest percentage of voters of color the hardest.

And, fourth, in some States, election officials have unfettered discretion to reject a ballot if they perceive discrepancies in the voter's signature, leading to the disproportionate rejection of ballots of voters of color. And while most States now allow voters to fix such

issues, a few States, notably Texas and Tennessee, do not.

Indeed, Tennessee's mail voting rules are a model on what not to do. The State has rigid eligibility criteria, refuses access to most first-time voters, criminalizes distribution of applications, does not allow any drop boxes, and has no process to allow voters to fix discrepancies. And this year, Georgia and Kansas have mimicked Tennessee by prohibiting or restricting the mere distribution of mail ballot applications to voters.

Finally, our electoral system wholly ignores the approximately 750,000 voters who find themselves in jails on election day. These voters are largely eligible to vote but de facto disenfranchised because jails and election officials alike have not set up systems to

enable their participation.

This Congress has a historic opportunity to create an equitable baseline of voting opportunities and stop the onslaught of discriminatory voting proposals.

Thank you for the opportunity to testify, and I would be happy

to answer any questions.

[The statement of Ms. Lang follows:]

Statement of Danielle Lang Director of Voting Rights Campaign Legal Center

Committee on House Administration Subcommittee on Elections

Hearing on "Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot" June 11, 2021

Thank you for the opportunity to appear before you today to testify about the importance of polling place quality and varied voting opportunities to access the franchise, as well as current efforts to restrict such access across the country. I am the Director of the Voting Rights Program at the Campaign Legal Center ("CLC"), a nonpartisan 501(c)(3) organization dedicated to advancing American democracy through law. I am also an Adjunct Professor of Law at Georgetown University Law Center, where I teach an Election Law Practicum. In 2020, I also taught at Yale Law School as a visiting clinical lecturer with the Rule of Law Clinic. In my position at CLC, I have firsthand knowledge of the importance of the topics of this hearing. Indeed, I have led voting rights litigation addressing these issues in courts across the United States, from the trial level to the U.S. Supreme Court.

I will briefly describe the Voting Rights Act, its weakening by the Supreme Court in Shelby County v. Holder, and the resultant resurgence of voter suppression legislation across the country. I will then discuss two of the most significant ways in which the right to vote has been restricted in the years since the Shelby County decision: first through attacks on the quality of in-person voting sites, i.e., polling places, and second through restrictions on opportunities to vote, including early voting, absentee voting, and drop boxes. Both of these issues disproportionately—and too often intentionally—prevent voters of color from exercising their right to vote.

Polling place quality and varied opportunities to vote are crucial to the success of American democracy, public confidence, and political engagement. In 2020, voters

around the country participated in our elections at the highest rates in more than a century. Yet, in many states, the response to this outpouring of collective action by the American people has been to limit, rather than expand, the number and quality of polling places and opportunities to vote.

While these broad topics highlight a myriad of distinct and compounding problems, both illustrate the dire need for legislative action to ensure that all levels of government afford every American meaningful and equitable opportunities to exercise their fundamental right to vote.

I. OVERVIEW

The Voting Rights Act of 1965, 52 U.S.C. § 10301 *et seq.* ("VRA" or the "Act"), is one of the most transformative pieces of civil rights legislation ever enacted in the United States.

Section 2 of the VRA "prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in [a] language minority group," and, as of now, is the most actively litigated section of the statute.² Originally, Section 2's prohibition was reinforced by Section 5 of the Act, which required states and localities with a history of discrimination in voting to seek preclearance from the federal government before making any changes in their voting laws. Indeed, given the ingenuity of legislators in devising racist voting restrictions during the Jim Crow era—which made post-enactment litigation a game of inefficient whack-a-mole—preclearance was the heart of the VRA's success.

But in 2013, the Supreme Court invalidated the coverage formula for determining which jurisdictions were subject to preclearance, rendering Section 5 of the VRA

Jacob Fabina, Despite Pandemic Challenges, 2020 Election Had Largest Increase in Voting Between Presidential Elections on Record, U.S. CENSUS BUREAU (Apr. 29, 2021),

https://www.census.gov/library/stories/2021/04/record-high-turnout-in-2020-general-election.html.

Section 2 of the Voting Rights Act, U.S. DEP'T OF JUST., https://www.justice.gov/crt/section-2-voting-rights-act.

powerless to fight discrimination in voting.³ In a 5–4 decision, the Court ruled as a matter of law that "[o]ur country has changed" because the discriminatory "conditions that originally justified [the VRA's preclearance] measures no longer characterize voting in the covered jurisdictions." Sadly, the years since *Shelby County* have disproven that hypothesis.

The Shelby County decision was a tragic setback in our nation's struggle to break down the entrenched barriers that minority groups must overcome to participate equally in the political process. And since then, civil rights advocates have struggled to keep up with the deluge of voter suppression legislation, regulation, and election administration changes across the country, especially in jurisdictions formerly subject to preclearance.

In the wake of the highest voter participation in more than a century during the 2020 elections,⁵ the war on voters has only intensified. Between January and May of this year, legislators in 48 states introduced at least 389 bills seeking to restrict the right to vote, and 14 states enacted 22 new restrictive laws.⁶

As a result, in many states it is substantially harder to vote now than it was before *Shelby County* was decided. Two significant ways in which the right to vote has been abridged are through (1) a decline in polling place quality—including polling place closures, relocations, long and racially disparate wait times, inaccessible or inhospitable polling sites, and insufficient resources—and (2) cutbacks on

Shelby County v. Holder, 570 U.S. 529 (2013).

⁴ Id. at 535, 557. But see id. at 590 (Ginsburg, J., dissenting) ("Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.").

See Kevin Schaul, Kate Rabinowitz, & Ted Mellnik, 2020 Turnout is the Highest in Over a Century, Wash. Post (Nov. 5, 2020), https://www.washingtonpost.com/graphics/2020/elections/voter-turnout/.

State Voting Bills Tracker 2021, BRENNAN CTR. FOR JUST. (last updated May 28, 2021), www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021; see also State Voting Rights Tracker, VOTING RIGHTS LAB (last updated June 7, 2021), https://tracker.votingrightslab.org/.

opportunities to vote, particularly constraints on early voting, absentee voting, and drop boxes.

II. POLLING PLACE QUALITY

Since Shelby County, states and localities across the country have imposed an unprecedented number of restrictions on in-person voting locations, i.e., polling places. Polling places—where many voters register to vote, update their registrations, and cast their ballots (either early or on Election Day)—are a bedrock of our electoral system. The quality of polling places—their number, location, accessibility, and resources—affects voter participation and confidence, thereby affecting the health and representative nature of American democracy.

But free from the guardrails of preclearance, many jurisdictions have undermined polling place quality in a number of ways. Most frequently, though not exclusively, states and localities have closed or relocated polling places with minimal or no notice to voters, established polling places in inaccessible or inhospitable locations, and/or

See, e.g., Democracy Diverted: Polling Place Closures and the Right to Vote 10, LEADERSHIP CONFERENCE EDUC. FUND, (Sept. 2019), http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf (documenting 1,688 polling place closures between 2012 and 2018).

⁸ See Election Administration and Voting Survey: 2018 Comprehensive Report, U.S. ELECTION ASSISTANCE COMM'N 7, 12 (June 2019),

https://www.eac.gov/sites/default/files/eac_assets/1/6/2018_EAVS_Report.pdf (documenting more than 230,000 polling places used by almost 88 million Americans voting in-person, either early or on Election Day, during the 2018 elections).

See, e.g., Christopher Mann & Robert M. Stein, The Impact of Polling Places on Voting, Prepared for the Election Sci. Reform & Admin. Conference 19 (July 2019), https://epb-us-w2.wpmucdn.com/web.sas.upenn.edu/dist/7/538/files/2019/07/Mann-and-Stein-Polling-Place-Effect.pdf (polling places and their attributes "often have important impacts on voter confidence in election"); VOTING RIGHTS LAB, Polling Place Consolidation: Negative Impacts on Turnout and Equity 7 (July 2020), https://wotingrightslab.org/wp-content/uploads/2021/01/Polling-Place-Consolidation-Negative-Impacts-on-Turnout-and-Equity.pdf ("Longer distances to polling places halve] been shown to reduce turnout in both large and small elections."); Matt A. Barreto, Mara Cohen-Marks, & Nathan D. Woods, Are All Precincts Created Equal? The Prevalence of Low-Quality Precincts in Low-Income and Minority Communities, 62 Pol. RES. Q. 445, 454 (Sep. 2009) ("[]] fa voter becomes familiar with his or her precinct location because it has been used year after year, this alone may have a significant impact on turnout"); Daniel Garisto, Smartphone Data Show Voters in Black Neighborhoods Wait Longer, SCI. AM. (Oct. 1, 2019).

https://www.scientificamerican.com/article/smartphone-data-show-voters-in-black-neighborhoods-wait-longer1 (finding that, in 2012, long lines at the polls were estimated to have deterred between 500,000 and 700,000 voters from casting their ballot).

failed to provide polling places with sufficient staff and resources. These problems, in turn, prolong polling place wait times and exacerbate voter confusion, which themselves depress turnout and risk disenfranchisement. All of these harms disproportionately burden voters of color and other historically marginalized groups, ¹⁰ frustrating the very purpose of the Voting Rights Act and demonstrating the need for federal legislative action to protect voters' ability to meaningfully access polling places.

These problems are further exacerbated by the fact that local government election laws, policies, and practices governing polling places are often buried in local election codes and legislative meeting minutes. Thus, absent the protection of Section 5 preclearance, local officials have been left with unfettered discretion, too often using it to make it more difficult and more confusing for voters to vote, and leaving advocates struggling to track the proliferation of polling place restrictions.

A. Polling Place Closures

Empirical political science research has found that "reducing [] the number and location of polling places depress[es] voter turnout." Even apparently slight changes in the distance that voters have to travel to reach their polling place "can have a

See, e.g., Stephen Fowler, Why Do Nonwhite Georgia Voters Have To Wait In Line For Hours? Too Few Polling Places, NPR (Oct. 17, 2020), https://www.npr.org/2020/10/17/924527679/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-too-few-polling-pl; Mark Nichols, Closed voting sites hit minority counties harder for busy midterm elections, USA TODAY (Oct. 30, 2018), https://www.usatoday.com/story/news/2018/10/30/midterm-elections-closed-voting-sites-impact-minority-voter-turnout/1774221002/; Alexa Ura, Chris Essig, & Madison Dong, Polling places for urban voters of color would be cut under Texas Senate's version of voting bill being negotiated with House, TEX. TRIB. (May 23, 2021), https://www.texastribune.org/2021/05/23/texas-voting-polling-restrictions/.

Mann & Stein, supra note 9; see also Matt Vasilogambros, Polling Places in Black Communities Continue to Close Ahead of November Elections, GOVERNING (Sept. 5, 2018), https://www.governing.com/archive/sl-polling-place-close-ahead-of-november-elections-black-voters.html ("The number of polling places in a county can have a significant impact on who votes."); John E. McNulty, Conor M. Dowling, & Margaret H. Ariotti, Driving Saints to Sin: How Increasing the Difficulty of Voting Dissuades Even the Most Motivated Voters, 17 Pol. Analysis 435 (Oct. 2009) (finding that polling place closures and consolidation can dissuade even habitual, motivated voters from going to the polls).

major impact on turnout: the greater distance to vote, the lower chance of voting." ¹² Polling place closures, in turn, can lead to longer lines at the remaining polling places, as well as confusion for voters, especially repeat voters who show up at their prior polling place only to find it closed. Both outcomes may dissuade or prevent some people from voting. *See infra* at II.C, Racial Disparities in Wait Times.

Worse still, the harmful effects of polling place closures are most pronounced for communities of color, where closures occur most frequently and impose the greatest costs on voters. ¹³ First, voters of color are more likely to have their polling places closed, consolidated, or relocated, increasing voter confusion, depressing turnout, and risking disenfranchisement in already marginalized and historically disenfranchised communities. ¹⁴ Second, the burdens on voters caused by polling place closures and relocations—having to find information about polling place changes, figure out where and how to get to a new polling place on short notice, and/or travel a greater distance to that new polling place—are higher for voters of color, who are more likely to have limited transportation options, and less flexibility or time to vote. ¹⁵

VOTING RIGHTS LAB, Polling Place Consolidation, supra note 9, at 5; see also Enrico Cantoni, A Precinct Too Far: Turnout and Voting Costs, 12 AM. ECON. J.: APPLIED ECON. 61 (2020) (finding that even a 0.25-mile increase in the distance to a polling place reduces the number of ballots cast by 2 to 5 percent over presidential, mid-term congressional, and municipal elections); Henry E. Brady & John E. McNulty, Turning Out to Vote: The Costs of Finding and Getting to the Polling Place, 105 AM. Pol. Sci. Rev. 115 (Feb. 2011).

See, e.g., Vasilogambros, supra note 11; Mann & Stein, supra note 9, at 5 ("the depressing effect of distance to a polling place and voter turnout is enhanced three-fold in high racial/ethnic minority communities over non-minority communities").

See, e.g., Vasilogambros, supra note 11; see also Emily Green, Tt's Very Much a Racial Issue': Why Georgia Has Slashed Hundreds of Polling Places in the Last 4 Years, VICE NEWS (Oct. 22, 2020), https://www.vice.com/en/article/xgzqn7/its-very-much-a-racial-issue-why-georgia-has-slashed-hundreds-of-polling-places-in-the-last-4-years; Seth Cohen, Jim Crow 2.0? How Kentucky's Poll Closures Could Suppress Black Votes, FORBES (June 22, 2020), https://www.forbes.com/sites/sethcohen/2020/06/22/kentucky-and-jim-crow-2-dot-0/2sla-6427hea22319. Bishard Salama Texas december the december of polling sites, making it hands for

https://www.lores.com/snes/sethconen/2020/06/22/Rentucky-and-pmi-crow-2-uni-0/?sh=6d27bca22219; Richard Salame, Texas closes hundreds of polling sites, making it harder for minorities to vote, THE GUARDIAN (Mar. 2, 2020), https://www.theguardian.com/usnews/2020/mar/02/texas-polling-sites-closures-voting.

See, e.g., VOTING RIGHTS LAB, Polling Place Consolidation, supra note 9, at 4; Sarina Vij. Why Minority Voters Have a Lower Voter Turnout: An Analysis of Current Restrictions, 45 Hum. Rts. Mag. (June 26, 2020).

https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/voting-in-2020/why-minority-voters-have-a-lower-voter-turnout/ ("It is also far more difficult for members of

Despite these identifiable harms to voters, especially voters of color, polling place closures have been occurring at an unprecedented rate since *Shelby County*. The result has been a rapid decline in the number of in-person polling places, significantly reducing opportunities for people to vote.

In just the three years following the *Shelby County* decision, seventeen states and the District of Columbia closed large numbers of in-person polling places. ¹⁶ The Leadership Conference Education Fund, the research arm of a coalition of over 200 civil rights groups, identified 868 polling places in jurisdictions formerly covered by Section 5 of the VRA that closed during that time. ¹⁷ By 2018, that number had nearly doubled, totaling an astounding 1,688 polling place closures since *Shelby County*—despite a significant increase in voter turnout over the same period. ¹⁸

Jurisdictions previously covered by Section 5—i.e., jurisdictions with a history of racial discrimination in voting—have, by far, the highest rates of polling place closures, closing roughly 20 percent more polling locations than other jurisdictions. ¹⁹ And polling place closures have been most prevalent in already underserved and/or historically disenfranchised communities, particularly communities of color. ²⁰

minority communities to be able to locate polling places on Election Day. Only 5 percent of white survey respondents reported that they had trouble finding polling locations, compared to 15 percent of African American and 14 percent of Hispanic respondents.").

See VOTING RIGHTS LAB, Polling Place Consolidation, supra note 9, at 5.

LEADERSHIP CONFERENCE EDUC. FUND, The Great Poll Closure 4 (Nov. 2016), http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf.

LEADERSHIP CONFERENCE EDUC. FUND, Democracy Diverted, supra note 7, at 10; see also Andy Sullivan, Southern U.S. states have closed 1,200 polling places in recent years: rights group, REUTERS (Sept. 10, 2019), https://www.reuters.com/article/us-usa-election-locations/southern-u-s-states-have-closed-1200-polling-places-in-recent-years-rights-group-idUSCN1VV09J (finding that between 2013 and 2019, southern states closed nearly 1,200 polling places).

Allison McCann, How the Gutting of the Voting Rights Act Led to Hundreds of Closed Polls, VICE NEWS (Oct. 16, 2018), https://news.vice.com/en_us/article/kz58qx/how-the-gutting-of-the-voting-rights-act-led-to-closed-polls.

See, e.g., Vasilogambros, supra note 11 (discussing polling place closures in Georgia, Florida, Indiana, Illinois, Kansas, Mississippi, Ohio, and Wisconsin, and the racial implications of such closures); VOTING RIGHTS LAB, Polling Place Consolidation, supra note 9, at 5 (describing racially disparate polling place closures in Indiana and Florida, among other states).

For example, by 2018, Texas—a state where 39 percent of the population that year was Latino and 12 percent Black—closed more polling places since *Shelby County* than any other state, roughly 750 sites.²¹ Most of these closures were in majority-minority communities, a pattern repeated in other states.

Arizona—where 30 percent of the population in 2018 was Latino, 4 percent Native American, and 4 percent Black—had the most widespread reduction in polling places, closing locations in almost every county (13 of 15) since Section 5 preclearance was abolished.²² Maricopa County, home to Phoenix and a large Latino population, closed more polling places than any other county studied, and more than the next two counties combined.²³

Georgia—where 31 percent of the population in 2018 was Black and 9 percent Latino—closed a greater percentage of polling places than any other state.²⁴ Several counties closed more than 80 percent of their polling places, leaving some with a single polling site to serve all voters within several hundred square miles.²⁵

Through public records requests and data provided by the Center for Public Integrity, CLC has continued to document recent polling place closures in Louisiana, Mississippi, and Alabama. Since *Shelby County*, Louisiana has seen a steady decline in polling place access, especially for urban communities. For example, Jefferson Parish, Louisiana's largest parish, has seen an 8.7 percent *increase* in the number of Black registered voters between 2012 and 2020 but a 15 percent *decrease* in the number of polling places. Counties in Mississippi and Alabama display a similar pattern. Lauderdale County, Mississippi—which is 44 percent Black—closed 20 percent of its polling places between 2012 and 2020, even though the county's citizen

LEADERSHIP CONFERENCE EDUC. FUND, Democracy Diverted, supra note 7, at 17.

²² Id

²³ Id

²⁴ Id. at 18; see also Vasilogambros, supra note 11 (reporting that, in 2018, 10 counties in Georgia with large Black populations closed polling places "after a white elections consultant recommended they do so to save money").

Leadership Conference Educ, Fund, Democracy Diverted, supra note 7, at 18.

voting age population increased by 3 percent. And Shelby County, Alabama—namesake of the Supreme Court decision—closed roughly 10 percent of its polling places between 2012 and 2020, despite an increase of almost 13 percent in the county's citizen voting age population.

CLC has not only documented but fought to prevent the harmful effects of polling place closures on communities of color. On October 12, 2020, CLC filed a federal lawsuit against the Recorder of Pima County, Arizona for her elimination (and refusal to reinstate) an in-person early voting site on the Pascua Yaqui Reservation, located outside Tucson. ²⁶ The Pascua Yaqui Tribe had an in-person early voting site on their reservation from 2010 to 2018. But one month before the August 2018 primary, the county recorder closed the site, forcing 3,600 to 4,000 voters living on the reservation—93 percent of whom are Native American—to travel out of their community (more than two hours roundtrip by bus) just to vote at the nearest early voting location. ²⁷ This is a difficult journey for members of a community where access to cars is limited, poverty and unemployment rates are high, and the median income is half that of the county average—and the burden on those voters was only magnified during the COVID-19 pandemic, which made early voting access paramount.

Though the Pascua Yaqui Tribe advocated for reinstatement of the early voting location in every election since its removal—with support from the Mayor of Tucson, the Pima County Board of Supervisors, and the Arizona Secretary of State's office, as well as voting rights advocates—the voting site remained closed during the 2020 election because the recorder refused to reinstate it and a federal court declined to

See Complaint, Pascua Yaqui Tribe v. Rodriquez, CV-20-00432-TUC-JAS at 7 n.10 (Oct. 12, 2020), https://campaignlegal.org/sites/default/files/2020-10/Pascua-Recorder-Complaint%20%2010.11.2020%288704510.1%29.pdf.

[&]quot;Longer distances to polling places ha[ve] been shown to reduce turnout in both large and small elections." VOTING RIGHTS LAB, Polling Place Consolidation, supra note 9, at 7; see also, e.g., Cantoni, supra note 12.

require her to do so.28 The recorder refused to provide any early voting access on the reservation despite offers from the Secretary of State to fund the site and offers from the Tribe to provide alternative locations. These actions perpetuate the denial of the Pascua Yaqui Tribe's equal access to voting, making it harder for them to participate fully in our democracy.

Still, the harms caused by polling place closures in states and localities across the country-and all the harms discussed herein-can be remedied through legislative action designed to ensure that all levels of government offer and expand opportunities to vote. Indeed, the experience of the Pascua Yaqui Tribe underscores why federal legislation is sorely needed. Under preclearance, the removal of this site would likely have been prevented; yet the Tribe was unable to vindicate their rights in federal court because of the proximity of the lawsuit to the election. Notably, the court did not hold that the Recorder's actions were lawful under Section 2; only that it would not order a remedy before the election.²⁹ Restored preclearance under the John Lewis Voting Rights Advancement Act would prevent the Tribe from facing similar setbacks going forward.30

В. Relocation of Polling Places

Polling places need not be closed entirely to make voting more difficult.31 Simply changing polling place locations—especially close to the date of an election—increases the risk of voter confusion and of voters showing up at the wrong polling place. This, in turn, can depress turnout and/or result in disenfranchisement.

See Court Declines to Reinstate Early Voting Site for Arizona, CAMPAIGN LEGAL CTR. (Oct. 22, $\textbf{2020)}, \ \underline{\textbf{https://campaignlegal.org/press-releases/court-declines-reinstate-early-voting-site-arizonal-early-early-voting-site-arizonal-early-voting-site-arizonal-early-voting-site-arizonal-early-voting-site-arizonal-early-voting-site-arizonal-early-voting-site-arizonal-early-voting-site-arizonal-early-voting-site-arizonal-early-voting-site-arizonal-early-voting$ tribe.

See Order, Pascua Yaqui Tribe v. Rodriguez, CV-20-00432-TUC-JAS (Oct. 22, 2020), https://campaignlegal.org/sites/default/files/2020-10/Pima%20County%20Order.pdf.

See H.R. 4, Voting Rights Advancement Act § 4A(b)(6) (2019-20),

https://www.congress.gov/116/bills/hr4/BILLS-116hr4rfs.pdf.

See Vasilogambros, supra note 11 ("[I]t's not just the number of polling places that affect voter outcomes. Moving voters to different voting environments also may affect how they vote.").

Research shows that polling place stability, i.e., voter familiarity with their polling place location, has a significant effect on voter turnout.³² "Changing polling locations can lower turnout due to both transportation costs—distance, time, and the cost of finding and using transportation to polling places, and search costs—the cost of learning about and finding new polling locations."³³ It can also prevent voters from casting their ballots when combined with other discriminatory laws like bans on out-of-precinct voting, which require an individual's vote to be discarded if they show up to the wrong polling place after election officials make changes. See infra III.D, Out-of-Precinct Voting. Polling place consolidation is also likely to compound wait times and administrative issues, see infra at II.C, Racial Disparities in Wait Times, risking further depression of voter turnout.

Polling place relocations, as with closures, disproportionately affect communities of color.³⁴ Older voters, voters with disabilities, and low-income voters may also be affected, as they are less likely to be able to identify and/or get to a new location to cast their vote.

In our work, CLC has seen firsthand the scale and disparate effects of polling place relocations. Through public records requests combined with open-source data, CLC found that, since *Shelby County*, East Baton Rouge Parish, Louisiana, the seat of the state's capital, saw a more modest decrease in the number of polling places than other

See, e.g., Barreto, Cohen-Marks, & Woods, supra note 9, at 454 ("[I]f a voter becomes familiar with his or her precinct location because it has been used year after year, this alone may have a significant impact on turnout"); Jesse Yoder, How Polling Place Changes Reduce Turnout: Evidence from Administrative Data in North Carolina, Working Paper (Aug. 14, 2019), https://www.dropbox.com/s/pk219n6bam4584d/pollingplaces.pdf?dl=1 (finding that, in North Carolina, polling place changes reduced voter turnout by between 0.7 and 2 percent per election, and that the negative effects on turnout were not offset by early or absentee voting).

VOTING RIGHTS LAB, Polling Place Consolidation, supra note 9, at 6-7.

See, e.g., Carrie Levine, Pratheek Rebala, & Matt Vasilogambros, First Came the Floods. Then Came the Polling Place Changes, CTR. FOR PUB. INTEGRITY (Sept. 24, 2020), https://publicintegrity.org/politics/elections/ballotboxbarriers/first-came-the-floods-then-came-the-polling-place-changes/ (noting that, between 2012 and 2016, a higher percentage of Black voters than white voters in East Baton Rouge, Louisiana had their polling places relocated); Brian Amos, Daniel A. Smith, & Casey Ste. Claire, Reprecincting and Voting Behavior, 39 POL. BEHAVIOR 133 (Mar. 1, 2017) (finding that, in Manatee County, Florida, Black and Latino voters were significantly more likely than white voters to be reassigned to new polling places following polling place closures).

large parishes, but that voters in the parish—particularly Black voters—saw their polling places relocated with far greater frequency.³⁵ Such polling place location changes create barriers to access that disproportionately affect voters of color.

Ill-intentioned or poorly drafted legislation may make the relocation of polling places, particularly in minority communities, more likely. For example, Georgia's newly enacted voter suppression legislation, S.B. 202, requires polling places that serve more than 2,000 voters and have wait times surpassing an hour to provide more voting equipment and/or poll workers or split up the precinct.³⁶ As polling places in minority communities generally serve more voters (because there are fewer polling places in these communities)³⁷ and have longer wait times, see infra at II.C Racial Disparities in Wait Times, this provision makes it more likely that polling places in minority communities will be relocated, creating confusion and uncertainty for voters. Thus, while the provision at the surface may seem ameliorative by addressing wait times, its design is likely to create as much harm as good.

Adding insult to injury, S.B. 202 further requires that, if a person shows up at the wrong polling place in their county, the voter must travel to their newly assigned polling place. The voter can only cast a provisional ballot that will count if: (1) it is cast after 5 P.M. but before the regular time for the closing of the polls on election day and (2) the voter executes a sworn statement, witnessed by a poll worker, stating that the voter is unable to vote at their correct polling place prior to the closing of the polls and giving the reason why. 38 See infra at III.D, Out-of-Precinct Voting.

Thus, Georgia's S.B. 202—a bill that would have been subject to Section 5 preclearance before *Shelby County*—makes polling place relocations in minority communities more likely, and then compounds the disenfranchising effect of those

See, e.g., Levine, Rebala, & Vasilogambros, supra note 34.

³⁶ Ga. S.B. 202 § 18 (As Passed, Mar. 25, 2021),

https://www.legis.ga.gov/api/legislation/document/20212022/201498.

See, e.g., sources cited supra, at n.10.

³⁸ Ga. S.B. 202 § 34.

relocations and any resultant voter confusion by refusing to allow most voters who appear at the wrong location to vote any ballot at all.

Much of the confusion caused by polling place relocations can be avoided through minimum notice requirements for voters affected by changes in location, as provided in H.R. 1 and S. $1.^{39}$

C. Racial Disparities in Wait Times

The voting barriers identified above—polling place closures and relocations—compound another problem that disproportionately affects voters of color: wait times at the polls. 40

The longer people must wait to vote, the less likely they are to do so. And while wealthier voters can more easily afford to wait, lower income voters—often voters of color—are both more likely to face longer wait times *and* have less flexibility and time to vote. "It's the worst of both worlds: The voters who can least afford to wait are those who are most likely to have to."⁴¹

Research shows that lengthy wait times at the polls depress voter turnout during the

See H.R. 1, For the People Act of 2021 § 1902 (2020-21), https://www.congress.gov/117/bills/hr1/BILLS-117hr1eh.pdf; S. 1, For the People Act of 2021 § 1902 (2020-21), https://www.congress.gov/117/bills/s1/BILLS-117s1is.pdf.

⁴⁰ See Observations on Wait Times for Voters on Election Day 2012, U.S. GOV'T ACCOUNTABILITY OFF., GAO-14-850 (Sept. 2014), https://www.gao.gov/assets/gao-14-850.pdf (recommending that voters should not have to wait more than 30 minutes at a polling place to cast their ballot).

Brian Klass, Opinion: Black voters have to wait longer to vote. Here's how to fix it, WASH. Post (July 9, 2020), https://www.washingtonpost.com/opinions/2020/07/09/black-americans-have-wait-longer-vote-heres-how-fix-it/; see also Charles Stewart III, Managing Polling Place Resources, CALTECH/MIT VOTING TECH. PROJECT 10 (Nov. 2015),

 $[\]frac{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Polling\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Place\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources.pdf}{https://web.mit.edu/vtp/Managing\%20Resources$

election at issue. 42 Research also suggests that wait times at polling places depress future voter turnout. 43

And these effects are not felt equally: voters of color are three times more likely than white voters to wait more than 30 minutes to vote and six times more likely to wait more than an hour.⁴⁴ During the 2016 presidential election, this meant that, "[r]elative to entirely-white neighborhoods, residents of entirely-[B]lack neighborhoods waited 29% longer to vote and were 74% more likely to spend more than 30 minutes at their polling place."⁴⁵ During the 2018 midterm elections, "Latino voters waited on average 46 percent longer than white voters, and Black voters waited on average 45 percent longer than white voters."⁴⁶

These stark racial disparities in polling place wait times are easily explained: polling places in minority communities often have fewer resources, including fewer poll

See, e.g., Robert M. Stein et al., Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-county Study, 73 Pol. Res. Q. 439 (Mar. 28, 2019) (finding higher rates of people leaving the check-in line at polling places with longer lines and waiting times to check-in and vote); Garisto, supra note 9 (finding that, in 2012, long lines were estimated to have deterred between 500,000 and 700,000 voters from casting their ballot); Barreto, Cohen-Marks, & Woods, supra note 9 (reporting that voter turnout is significantly lower in Los Angeles polling places with longer lines and check-in times).

See Stephen Pettigrew, The Downstream Consequences of Long Waits: How Lines at the Precinct Depress Future Turnout, 71 ELECTORAL STUD. 102188 (June 2021) (finding that, for every additional hour a voter waits in line to vote, their probability of voting in the subsequent election drops by 1 percent).

Stephen Pettigrew, The Racial Gap in Wait Times: Why Minority Precincts Are Underserved by Local Election Officials, 132 POL. SCI. Q. 527, 527 (2017); see also Matt Vasilogambros, Voting Lines Are Shorter – But Mostly for Whites, STATELINE, PEW CHARITABLE TRUSTS (Feb. 15, 2018), https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/02/15/voting-lines-are-shorter-but-mostly-for-whites ("On the day of Arizona's 2016 presidential primary, the line outside the Maryvale Church of the Nazarene, the Maricopa County polling place for 213,000 mostly Latino, low-income people, extended through the parking lot, down busy North 51st Avenue, and into a neighborhood lined with palm and eucalyptus trees on the western edge of Phoenix... Some voters waited for four hours or more in the 80-degree heat to cast their ballots.] (").

Keith M. Chen, Kareen Haggag, Devin G. Pope, & Ryne Rohla, Racial Disparities in Voting Wait Times: Evidence from Smartphone Data, NAT'L BUREAU OF ECON. RES., Working Paper 26487 (rev. Oct. 2020), https://www.nber.org/system/files/working_papers/w26487/w26487.pdf.

Hannah Klain, Kevin Morris, Max Feldman, & Rebecca Ayala, Waiting to Vote: Racial Disparities in Election Day Experiences, BRENNAN CTR. FOR JUST. 4 (June 3, 2020), https://www.brennancenter.org/sites/default/files/2020-06/6 02 WaitingtoVote FINAL.pdf.

workers and voting machines per capita, to serve larger numbers of voters.⁴⁷ Disparities are further exacerbated by things like photo ID requirements, as voters in minority communities "are likely to lack the identification . . . required to vote, further lengthening lines and wait times" at polling places.⁴⁸

But fixing wait times cannot come at the expense of other polling place protections. Take again, for example, Georgia's S.B. 202. As discussed *supra* at II.B, Relocation of Polling Places, S.B. 202 provides that polling places serving more than 2,000 voters that have wait times of more than an hour must provide more voting equipment and/or poll workers *or* split up the precinct.⁴⁹ As polling places in minority communities generally have longer wait times, this provision trades the potential for shorter wait times at the polls for more polling place relocations,⁵⁰ which themselves risk greater voter confusion, depressed turnout, and disenfranchisement.

There are better ways—entirely feasible through legislative action—to address racially disparate wait times: provide additional resources for polling places struggling with long wait times, including voting equipment and poll workers, to meet

See, e.g., Pettigrew, The Racial Gap in Wait Times, supra note 44, at 537-38 ("Perhaps the most important factor in determining how long a line to expect on Election Day is the number of resources—particularly voting machines and poll workers—that are provided to a precinct. . . . [P]recincts that have higher concentrations of white voters tend to receive larger numbers of poll workers and voting machines than precincts with more minority voters."); Christopher Famighetti, Amanda Melillo, & Myrna Pérez, Election Day Long Lines: Resource Allocation, BRENNAN CTR. FOR JUST. 1-2 (Sept. 15, 2014),

https://www.brennancenter.org/sites/default/files/publications/ElectionDayLongLines-ResourceAllocation.pdf (finding that, in 2012, voters in precincts with more minorities had fewer voting machines and poll workers and experienced longer wait times; "the resources distributed to polling places are a key contributor to long lines"); Adam Rogers, Why Are Lines at Polling Places So Long? Math, Wired (Oct. 30, 2020), https://www.wired.com/story/why-are-lines-at-polling-places-so-long-math/ ("Fundamentally, the movement of the line is limited by how many resources are available to process the elements in the queue.")

Mann & Stein, *supra* note 9, at 3 (internal citation omitted); *see also* Stein et al., *supra* note 42 (in majority white polling places, scanning a voter's driver's license speeds up the check-in process, but, in majority non-white polling places, a voter ID requirement slows down the check-in process).

⁴⁹ Ga. S.B. 202 § 18.

⁵⁰ See id. § 34.

the needs of voters and election administrators without reducing opportunities to vote. H.R. 1 does just that 51

D. Polling Place Locations

While the number, stability of, and wait times at polling places are all crucial, so too are their chosen locations. The Supreme Court has already recognized as much, confirming that the location and accessibility of polling places can have a direct impact on a voter's ability to exercise their fundamental right to vote.⁵² Empirical research has repeatedly confirmed this holding.⁵³ Polling places should be accessible, equitably distributed throughout communities, and welcoming to voters. But, too often, they are not. And, once again, these barriers fall disproportionately on voters of color.

First, "[l]onger distances to polling places ha[ve] been shown to reduce turnout,"54 and "the depressing effect of distance to a polling place and voter turnout is enhanced three-fold in high racial/ethnic minority communities over non-minority communities."55

Second, polling places are too often located in buildings that are not easy to access physically, lack parking, lack nearby public transportation options, or are otherwise inaccessible to voters with disabilities. In 2014, the Government Accountability Office found that a staggering 83 percent of the polling places it studied had one or more

⁵¹ See H.R. 1 § 1906.

Perkins v. Matthews, 400 U.S. 379, 387 (1971).

See, e.g., Barreto, Cohen-Marks, & Woods, supra note 9, at 445 (finding that polling places locations in older facilities, with less parking, limited access by public transit, and in higher crime areas, depress voter turnout); see also id. at 455 (finding that the quality of polling place locations tended to be "lower" in low-income and minority communities).

VOTING RIGHTS LAB, *Polling Place Consolidation*, supra note 9, at 7; see also Cantoni, supra note 12 (finding that even a 0.25-mile increase in the distance to a polling place reduces the number of ballots cast by 2 to 5 percent over presidential, mid-term congressional, and municipal elections).

potential impediments to voters with disabilities.⁵⁶ Today, such impediments to voters remain rampant in polling places across the country.⁵⁷

Third, inhospitable voting locations chill voter participation. Indeed, research has also shown that the nature of polling places—whether they are located in a church, school, police station, etc.—"can shape whether and how [] a person chooses to vote."

But some jurisdictions place polling sites in locations, such as police stations, that can intimidate voters—particularly voters of color—and thereby depress turnout. ⁵⁹ In Orleans Parish, Louisiana, for example, a public polling place was for years located at the Israel Augustine Justice Center, a criminal court facility attached to a jail. Voters were required to navigate caution signs, ongoing construction replaced by a barbed wire fence, and a restricted parking lot filled with police vehicles just to vote. During some elections, voters were even required to go through a metal detector and navigate hallways staffed by armed police personnel in order to reach the polling site

Voters with Disabilities: Observations on Polling Place Accessibility and Related Federal Guidance, U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-4 (Oct. 2017), https://www.gao.gov/assets/gao-18-4.pdf.

See Polling Places Remain Inaccessible to Voters with Disabilities, Here's How to Fix Them, NAT'L DISABILITY RTS. NETWORK (Aug. 18, 2020), https://www.ndrn.org/resource/polling-places-remain-inaccessible-to-voters-with-disabilities-heres-how-to-fix-them/. Existing problems of accessibility are only heightened by restrictions on those voting practices, like curbside voting, that are crucial for voters with disabilities to exercise their fundamental right to vote. See, e.g., Alabama governor signs bill to ban curbside voting, ASSOCIATED PRESS (May 26, 2021), https://ad59fa58777feb539d83d22b63ec5c.

Mann & Stein, supra note 9, at 4-5; see also Jordan P. LaBouff, Balloting in Churches Sways Attitudes and Votes towards More Conservative Policies and Candidates, LSE UNITED STATES POLITICS & POLICY (Sept. 11, 2014), http://blogs.lse.ac.uk/usappblog/2014/09/11/balloting-in-churches-sways-attitudes-and-votes-towards-more-conservative-policies-and-candidates/; Abraham M. Rutchick, https://blogs.lse.ac.uk/usappblog/2014/09/11/balloting-in-churches-sways-attitudes-and-votes-towards-more-conservative-policies-and-candidates/; Abraham M. Rutchick, https://blogs.lse.ac.uk/usappblog/2014/09/11/balloting-in-churches-sways-attitudes-and-votes-towards-more-conservative-policies-and-candidates/; Abraham M. Rutchick, <a href="https://bos.lse.ac.uk/usappblog/2014/09/11/balloting-in-churches-sways-attitudes-and-votes-towards-more-conservative-policies-and-candidates/; Abraham M. Rutchick, https://bos.lse.ac.uk/usappblog/2014/09/11/balloting-in-churches-sways-attitudes-and-votes-towards-more-conservative-policies-and-candidates/; Abraham M. Rutchick, https://bos.lse.ac.uk/usappblog/2014/09/11/balloting-in-churches-sways-attitudes-and-votes-towards-more-conservative-policies-and-candidates/; Abraham M. Rutchick, <a href="https://bos.lse.ac.uk/usappblog/2014/09/11/balloting-in-churches-sways-attitudes-and-votes-towards-more-conservative-policies-and-candidates/

See, e.g., Katheryn Tucker, Polling Precinct in Police Station Chills Voting Rights, ACLU Claims, LAW.COM (Oct. 16, 2019), https://www.law.com/dailyreportonline/2019/10/16/polling-precinct-in-police-station-chills-voting-rights-aclu-claims/?slreturn=20210508110850.

inside.⁶⁰ Such barriers can render polling places inaccessible or intimidating to the general public.







Polling Place, Israel Augustine Justice Center, 2019 & 2020⁶¹

The murder of George Floyd and the events of the past year have demonstrated in the starkest of possible lights that encounters with police and the criminal justice system are particularly unwelcome and intimidating for voters of color. And courts have recognized that stationing police officers outside polling places is a "familiar

This information was provided by a volunteer for 866-OUR-VOTE and by the Center for Public Integrity's national data release regarding polling place locations. See Carrie Levine, Praatheek Rebala, & Matt Vasilogambros, National Data Release Sheds Light on Past Polling Places Changes, CTR. FOR PUB. INTEGRITY (Sept. 29, 2020),

 $[\]underline{https://public integrity.org/politics/elections/ballotboxbarriers/data-release-sheds-light-on-past-polling-place-changes/.}$

Pictures provided by volunteers with 866-OUR-VOTE.

form of voter intimidation."⁶² Similarly, Native American voters have reported placement of polling locations outside of their communities where they are met with hostile attitudes and intimidations.⁶³ Voting locations much be chosen with consideration for whether they will create a welcoming environment for all constituents.

Finally, there is one acceptable (and important) reason to have polling places inside of jails: to serve the eligible voters incarcerated in them. Every day, more than 700,000 Americans are incarcerated in jails across the country, and most of them retain their right to vote since pretrial detention *never* impacts voter eligibility and incarceration for a misdemeanor conviction rarely impacts voter eligibility. Indeed, the Supreme Court has affirmed the constitutional right of eligible incarcerated voters to cast their ballots.⁶⁴

But casting a ballot from jail is enormously difficult. Because incarcerated voters cannot vote in-person at their regular polling places, they often must rely on absentee voting in order to cast their ballots, which is necessarily limited: voters must request absentee ballots days or sometimes weeks before Election Day and allow additional time for their requests and ballots to arrive in the mail. Thus, every Election Day, thousands of eligible voters incarcerated shortly before the election are disenfranchised because their arrest comes after the absentee ballot application

(1973).

Shelby County v. Holder, 811 F. Supp. 2d 424, 486–87 (D.D.C. 2011), rev'd on other grounds, 570 U.S. 529 (2013); see also Democratic Nat'l Comm. v. Republican Nat'l Comm., 673 F.3d 192, 196 (3d Cir. 2012) (noting that the district court entered a consent decree to resolve claims of voter intimidation tactics including "enlist[ing] the help of off-duty sheriffs and police officers to intimidate voters by standing at polling places in minority precincts").

Obstacles at Every Turn: Barriers to Political Participation Faced by Native American
Voters, NATIVE AM. RIGHTS FUND (2020), https://vote.narf.org/obstacles-at-every-turn/.
See O'Brien v. Skinner, 414 U.S. 524, 530 (1974) (finding that pretrial detainees suffer "no legal disability impeding their legal right to register or to vote"); Goosby v. Osser, 409 U.S. 512

deadline, and their states failed to provide them with polling places inside jails or other alternative means of voting while incarcerated.⁶⁵

While a small number of jurisdictions have taken steps to address this problem—most notably Illinois and Washington, D.C.—the vast majority of jurisdictions do not provide jailed voters with any in-person or Election Day voting options. ⁶⁶ As a result, hundreds of thousands of eligible voters face certain disenfranchisement every election because of the lack of accessible election infrastructure.

Despite the scale of these problems, the solutions to them are simple. States and localities should provide voting options for incarcerated eligible voters in correctional settings. And, except for sites designed to serve incarcerated voters, polling places should not be located in law enforcement-related facilities, such as police stations and sheriffs' offices, that could intimidate voters or subject them to unnecessary security measures and/or intrusions on their privacy.⁶⁷ More generally, states should allow voters to cast their ballots at any one of several open, accessible polling places, rather than forcing voters to use a single designated site.⁶⁸ These requirements—combined

See Mays v. LaRose, 951 F.3d 775, 782 (6th Cir. 2020) (finding that jailed voter had no means of requesting or casting a ballot because he was arrested and confined after the State's ballot request deadline had passed); see also Ashish Prashar, An Emergency Correction to City Voter Disenfranchisement, GOTHAM GAZETTE (May 19, 2021), https://www.gothamgazette.com/games-archive/130-opinion/10479-emergency-correction-nye-voter-disenfranchisement-jails (discussing the inability of voters incarcerated in pretrial detention after the absentee ballot request deadline to vote); Michael Barajas, In Harris County, A Group is Working to Expand Voting Access in Jails, TEX. OBSERVER (Aug. 6, 2020), https://www.texasobserver.org/harris-county-jail-voting/ (discussing the need for a polling place inside Harris County Jail).

⁶⁶ See Dana Paikowsky, Jails as Polling Places: Living Up to the Obligation to Enfranchise the Voters We Jail, 54 HARV. C.R.-C.L. L. REV. 829 (2019).

Barriers to access can be exponentially more difficult to overcome in jurisdictions that restrict the number of polling places allowed in any given precinct or county or that require voters to cast their ballots at a designated precinct-based polling location. Vote centers—i.e., polling sites that are open to any registered voter in a given jurisdiction—offer a promising alternative to the precinct-based model. See Vote Centers, NAT'L CONFERENCE OF ST. LEGISLATURES
https://www.ncsl.org/research/elections-and-campaigns/vote-centers-aspx (last visited June 6, 2021).

https://www.ncsl.org/research/elections-and-campaigns/vote-centers.aspx (last visited June 6, 2021 Vote centers not only allow voters the flexibility to vote in the polling location of their choice—making it more likely that they will find a polling place accessible to them—vote centers have also been shown to boost voter turnout, especially among low propensity voters. See Robert M. Stein &

with measures improving polling place accessibility—will ensure that no individual's right to vote depends on their comfort with or ability to access their assigned polling place.

E. Polling Place Resources

Finally, even when polling places do exist in accessible, stable locations and wait times are short, Americans' ability to vote often depends on the availability and quality of resources in those polling places.

For example, no American should be excluded from democratic participation based on their inability to speak or understand enough English to engage in the electoral process. Too often, though, that is exactly what happens. Though the Voting Rights Act requires that voting and election materials must be offered in non-English languages under certain circumstances, ⁶⁹ one study suggests that forty percent of such jurisdictions fail to provide both oral and written language assistance to limited-English proficiency voters. ⁷⁰ It is essential that this barrier to access be remedied such that jurisdictions with sizeable language minority communities actually provide all election materials, including polling place materials, in the appropriate language(s), as well as interpretation services. ⁷¹

Similarly, jailed voters face barriers to the ballot box based on a lack of polling place resources. Because of their incarceration, these voters cannot independently access

Greg Vonnahme, Engaging the Unengaged Voter: Vote Centers and Voter Turnout, 70 J. OF POL. 487 (2008).

See Voting Rights Act § 203.

⁷⁰ See James Thomas Tucker & Rodolfo Espino, Government Effectiveness and Efficiency? The Minority Language Assistance Provisions of the VRA, 12 Tex. J. C.L. & C.R. 163, 176, 188 (2007) (stating that only 60.4 percent of 361 polled jurisdictions "reported providing both oral and written language assistance"); Mindy Acevedo, Matthew A. Barreto, Michael Cohen, Chad W. Dunn, & Sonni Waknin, Ensuring Equal Access to the Mail-In Ballot Box, 68 U.C.L.A. L. REV. DISC. (LAW MEETS WORLD) 4, 17-18 (2020).

See Vij, supra note 15 ("In communities that spoke little English, translated voting ballots were found to be responsible for increasing voter turnout by 11 points in the 2004 presidential election. In addition to increased voter turnout, the translated ballots allowed for higher voter engagement on all legislation.").

the information they need to determine their eligibility to vote, how to vote, when elections are being held, and what will be on the ballot. Although these resources are critical, states and jurisdictions often fail to provide them to jailed voters, and have even, at times, impeded advocates' efforts to do so.⁷² This problem is particularly urgent because of who it impacts: jails disproportionately incarcerate voters of color, low-income voters, homeless voters, and voters with disabilities. Thus, jail-based disenfranchisement, in its many forms, disproportionately deprives already marginalized communities of their political voices.

F. An Obligation to Act to Improve Polling Place Quality

In sum, the last eight years since *Shelby County* have seen unprecedented efforts by states and localities across the country to undermine the number and quality of polling places, as well as the resources available to them. These restrictions disproportionately affect voters and communities of color, and other historically disenfranchised groups. Federal legislative action is necessary to ensure that all Americans have access to quality in-person polling places where they can exercise their fundamental right to vote.

III. OPPORTUNITIES TO VOTE

The variety and equity of opportunities to vote are integral pieces to preserving democracy for all Americans. Yet, voters' opportunities to vote early, vote by mail or absentee, correct any mistakes made during the voting process, and vote while incarcerated are all areas that disproportionately harm voters of color and voters with disabilities. The structural inequities in opportunities to vote are often exacerbated by state legislation that intentionally or negligently targets voters of color, including

Madeleine Carlisle & Lissandra Villa, Whether or Not You're Able to Vote in Jail May Come Down to Where You're Incarcerated, TIME (Oct 1, 2020) https://time.com/5895219/voting-jail-2020-election/: Carlos Ballesteros & Emily Heorner, Injustice Watch mailed its judicial election guide to 1,000 detainees at Cook County Jail. They never received them., INJUSTICEWATCH (Oct. 26, 2020) https://www.injusticewatch.org/news/2020/cook-county-jail-rejects-1000-judicial-election-guides-mailed-to-detainees/.

the elimination of early voting days most used by, voting requirements that disproportionately harm, and ballot verification processes that disproportionately discount voters of color.

A. Early Voting Opportunities

Early voting makes it possible for voters of color, who are more likely to work low-income jobs and cannot take off work on Election Day, to vote conveniently and without losing pay or risking their job security. In 2020, polls showed that Black voters were the most likely to cast an early ballot and in 2016, Latino voters were the most likely to cast an early ballot.⁷³

One of the most important early voting days of the week in America is Sunday, which has always been a sacred day for Black people to not only exercise their right to vote, but fight for it. 74 During the Civil Rights Movement, one of the struggle's most memorable and tragic days took place on Bloody Sunday, March 7, 1965, when the late Congressman John Lewis and nearly six hundred others marched from Selma to Montgomery to fight for their right to vote, only to be met with brute force from police officers ordered by Alabama Governor George Wallace "to use whatever measures are necessary to prevent a march." 75 Today, Black churches across the country, especially in the Deep South, gather their congregations after Sunday services and organize transportation to take their members to the polls to vote. This hallowed tradition, colloquially known as "Souls to the Polls," began during the 1990s and became a full-fledged national movement during the early 2000s. 76

Geoffrey Skelley, A Record Number Of Black Americans Could Vote Early This Year, FIVETHIRTYEIGHT (Sept. 21, 2020), https://fivethirtyeight.com/features/a-record-number-of-black-americans-could-vote-early-this-year/.

See Ruby J. Garrett, A Call for Prophylactic Measures to Save Souls to the Polls: Importing a Retrogression Analysis in Sec. 2 of the Voting Rights Act, 2015 U. CHI. LEGAL. F. 633 (2016).

Christopher Klein, How Selma's Bloody Sunday' Became a Turning Point in the Civil Rights Movement, HISTORY (last updated Jul 18, 2020), https://www.history.com/news/selma-bloody-sunday-attack-civil-rights-movement.

David D. Daniels III, The Black Church has been Getting 'Souls to the Polls' for More Than 60 Years, The Conversation (Oct. 30, 2020), https://theconversation.com/the-black-church-has-been-getting-souls-to-the-polls-for-more-than-60-years-145996. While the practice of churches organizing and transporting their members to the polls after church began in the 1990s, the NAACP is credited

But there are those politicians today who continue to engineer means of targeting Black political power by reducing opportunities to vote used by the Black community. In recent years, one of those means has been the reduction—and in some cases outright elimination—of early in-person voting, particularly Sunday early voting. These measures transparently take aim at Black churches and "Souls to the Polls" events. During the 2020 legislative session, numerous state legislators introduced proposals to restrict or eliminate Sunday early voting, only to be drowned out by the voices of organizers, activists, and voters on the ground who refused to allow these bills to pass. But while states like Georgia and Texas failed to restrict Sunday voting during this year's legislative sessions, these racist efforts to limit Black Americans' access to the ballot have been continuous over the past decade and are certain to persist unless the Voting Rights Act of 1965 is restored to its full strength.

In 2011, the Florida legislature passed a bill eliminating Sunday voting on the Sunday immediately preceding Election Day.⁷⁷ This bill came after data from the 2008 Presidential election showed that "[a]cross all early voting days, the two days that featured the lowest white participation rates...were both Sundays," but "on the first Sunday of early voting, the racial and ethnic group with the highest relative participation rate was African-American voters. And on the last Sunday, the group with the highest relative participation rate was Hispanic voters, followed by African-American voters."⁷⁸

North Carolina notoriously eliminated one of its two Sunday early voting days in July 2013 and subsequently argued that the change was justified because "counties with Sunday voting...were disproportionately black" and "disproportionately Democratic." The United States Court of Appeals for the Fourth Circuit labeled

with creating the slogan: "souls to the polls," in 2000. See Michael C. Herron & Daniel A. Smith, Souls to the Polls: Early Voting in Florida in the Shadow of House Bill 1355, 11 ELECTION L.J. 331 (2012).

See Herron & Smith, supra note 76.

⁷⁸ Id. at 343

 $^{^{79}}$ $\,$ N.C. State Conference of NAACP v. McCrory, 831 F.3d 204, 226 (4th Cir. 2016) (internal quotations and citations omitted).

North Carolina's restriction on Sunday voting "as close to a smoking gun as we are likely to see in modern times," noting that "the State's very justification . . . hinges explicitly on race—specifically its concern that African Americans, who had overwhelmingly voted for Democrats, had too much access to the franchise." 80

Black voters' high turnout on Sundays is directly tied to Black churches' "Souls to the Polls" efforts. As Evelyn Garcia, then-President of the Democratic Haitian-American Caucus of Florida, explained in 2011, "We go to church on Sunday, and then we go together and early-vote...People try to help each other because transportation was a problem and knowing where to vote was a problem with some people who were new in the community."⁸¹ In 2014, data from Georgia and North Carolina similarly showed that 53 percent of the 25,000 early votes cast on the second Sunday before Election Day were from Black voters, compared with 27 percent of the votes cast by all early voters in the 2014 midterm elections.⁸²

In light of this data, Georgia legislators attempted to ban Sunday voting earlier this year through H.B. 531, a precursor bill to S.B. 202.83 Unlike the previous restrictions in Florida and North Carolina, Georgia's law would have eliminated Sunday voting in Georgia completely—immediately after the 2021 runoff elections in which Black voters helped elect Georgia's first Black and Jewish U.S. Senators. The Georgia Assembly's 2021 attempt to ban Sunday voting was a continuation of its 2016 legislative efforts, when State Senator Fran Millar and State Representative Mike Jacobs initiated an investigation to "stop this action" and "eliminate [the] election law loophole" that allows "Souls to the Polls" events to occur." While the ban on Sunday voting passed the Georgia House of Representatives earlier this year, it was killed in

⁸⁰ Id.

Herron & Smith, supra note 76 at 340.

Nate Cohn, The Big Role of Black Churches in Two Senate Races, N.Y. TIMES (Oct. 29, 2014), https://www.nytimes.com/2014/10/30/upshot/data-from-sunday-points-to-black-churches-role-in-mobilizing-voters.html.

⁸³ Black Church Leaders in Georgia on the Importance of 'Souls to the Polls', NPR (Mar. 22, 2021) https://www.npr.org/transcripts/977929338.

Garrett, supra note 74, at 634.

the Georgia Senate after fierce advocacy from organizations in Georgia like Black Voters Matter and the Georgia State Conference of the NAACP.

Georgia was not the only state that targeted "Souls to the Polls" events this year. Less than two weeks ago, Texas attempted to ban Sunday voting before 1:00 p.m. and after 9:00 p.m. 85 This restrictive proposal came after organizations like DFW (Dallas/Ft. Worth) Metro Justice and Equality hosted "Souls to the Polls" events on two early voting Sundays in four separate locations at 11:00 am and 11:30 a.m. 86 In Waco, Texas, church congregations caravanned in cars and church vans decorated with balloons and ribbons to go vote on Sunday. After voting, church members usually have a meal together, join in fellowship with each other, and sometimes even dance together. Pexas's proposal was added to S.B. 7, the State's omnibus voter suppression bill, during the conference committee at the 25th hour and never appeared in either the version of the bill that passed the Texas House or Senate. After legislators who opposed the restrictions broke quorum by walking out of the legislative session, the bill failed, but the Governor has already vowed to call the legislature back into session later this year to pass a bill that will likely include some form of a restriction on Sunday voting. 89

Texas Representative Travis Clardy claimed that this racially targeted voting restriction was a "typo" and that "[w]hat should have been 11 was actually printed up as [1]." But as Harris County Judge Lina Hidalgo explained, a typo would not

⁸⁵ Patrick Svitek, Republicans Say They'll Tweak Part of Texas Elections Bill Criticized for Impact on Black Churchgoers, TEX. TRIB. (June 1, 2021),

https://www.texastribune.org/2021/06/01/texas-voting-bill-sunday-republicans/

See Souls to the Polls: An Early Voting Event with Social Distancing, N. Dallas Gazette (Oct. 20, 2020), https://northdallasgazette.com/2020/10/20/souls-to-the-polls-an-early-voting-event-with-social-distancing.

⁸⁷ Cuevas Peacock, Souls to the Polls, Baylor Univ. External Affairs (Dec. 3, 2020) https://www.baylor.edu/externalaffairs/news.php?action=story&story=221253.

⁸⁸ Id. After the bill failed, Texas State Senator Bryan Hughes incorrectly stated, "You can correct me, but souls to the polls — I thought we went to church and ate lunch and then voted." Svitek, supra note 85.

Texas Governor Vows Action After Democrats Walk Out Over Voting Bill, NPR (June 1, 2021), https://www.npr.org/2021/06/01/1002018197/texas-governor-vows-action-after-democrats-walk-out-over-voting-bill.

⁰ Id.

explain the difference between PM and AM after the additional "1".91 Moreover, such a "typo" that could affect the right to vote of hundreds of thousands of Texans is just one small example of why such slapdash and secretive attempts to reshape our election laws for partisan gain must be stopped. Regardless, even an 11 a.m. restriction on Sunday voting would limit access and as every attorney, judge and Member of Congress knows, each successful restriction on a right can pave the way for the eventual elimination of that right. "Not only does each day lost decrease the amount of votes, but also each successful restrictive measure makes it easier for the next one to be implemented. A proponent of decreasing electoral participation can chip away at Sunday voting [in bits and pieces] until it is eliminated."

The elimination of Sunday voting is not the only restriction on early voting a state has used to target minority voters. In Ohio, state officials eliminated the state's "Golden Week," which allowed voters to register and vote at the same time and was particularly popular with minority voters. ⁹³ The evidence in that case showed that the voting rate during Golden Week was the highest in communities with the highest percentage of Black voters. ⁹⁴ Yet despite this overwhelming evidence, which the district court found dispositive, the U.S Court of Appeals for the Sixth Circuit held that the elimination of Golden Week imposed a justifiable, minimal burden on Black voters in Ohio and was therefore not discriminatory. ⁹⁵ Once again, this decision underscores the inadequacy of our current federal protections on the right to vote.

There is no question that Georgia, Texas, North Carolina, Ohio, and Florida's restrictions on early voting—whether proposed, challenged, or ultimately enacted—intentionally target Black voters. Restoring the full protections of Section 5 of the

Lina Hidalgo (LinaHidalgoTX), TWITTER (June 1, 2021 6:59 PM), https://twitter.com/LinaHidalgoTX/status/1399863204562485248?s=20.

Garrett, supra note 74.

Adam Liptak, Supreme Court Won't Restore 'Golden Week' Voting in Ohio, N.Y. TIMES (Sept. 13, 2016), https://www.nytimes.com/2016/09/14/us/politics/supreme-court-wont-restore-golden-week-voting-in-ohio.html.

Ohio Org. Collaborative v. Husted, 189 F. Supp. 3d 708, 718, (S.D. Ohio 2016).

Ohio Democratic Party v. Husted, 834 F.3d 620 (6th Cir. 2016).

Voting Rights Act provides the clearest path to preventing similar proposals from being enacted in the future.

S. 1 would invalidate the restrictions proposed in Texas, North Carolina and Florida and implemented in Ohio. In Ohio, every week of early voting would be Golden Week because S. 1 requires all states to offer same day registration. If North Carolina, Florida, Texas, and Georgia are covered under H.R. 4's revised preclearance formula, they would be required to offer at least 10 hours of early voting for at least two Sundays prior to each federal election. Moreover, the John Lewis Voting Rights Advancement Act would specifically require all reductions in Sunday voting opportunities to undergo preclearance. This preclearance requirement is particularly well-tailored to address the racist attacks on "Souls to the Polls" in recent years. Restoring the full protections of Section 5 of the Voting Rights Act provides a path to preventing these proposals from being enacted in the future.

B. Absentee Voting Opportunities

Absentee voting is one of the most accessible, equitable, and secure methods of voting that states can implement. While the COVID-19 pandemic exponentially heightened the importance of allowing Americans to vote absentee and by mail, this method of voting is critical even absent pandemic conditions. But access to absentee voting in America is notoriously uneven. While some Americans can access a mail ballot for every election, have easy and varied means of returning that ballot, and are protected by procedures to ensure their ballot is counted, others are locked out of this option. Equitable absentee or mail-in voting requires widespread eligibility, accessible processes for receiving and casting ballots, and protections for voters at the ballot verification stage. Through its litigation, Campaign Legal Center has direct experience with the disproportionate harms that failures on all of these fronts can have on voters of color.

i. Eligibility to Vote Absentee

During the 2020 elections, the national spotlight called attention to inequitable eligibility rules for voting absentee in many states across the nation. While the majority of states have adopted uniform access to vote by mail for all their citizens, 16 states continue to restrict vote by mail access to limit categories of voters. ⁹⁶ And those categories often disproportionately exclude voters of color. Since vote by mail has proven secure and effective, there is no reason for states to arbitrarily limit access to this option to only favored categories of voters.

Texas's rules stand out in this regard. In May 2020, CLC moved to intervene on behalf of the League of United Latin American Citizens (LULAC) and its Texas chapter in a lawsuit filed by the Texas Democratic Party challenging Texas's vote-by-mail eligibility restrictions. Texas's restrictive eligibility criteria for requesting and casting absentee ballots deny the majority of Texans the ability to vote by mail—particularly Latino and younger voters. Texas law restricts access to absentee ballots to voters who meet one of a handful of specific eligibility criteria: voters who (1) will be away from their county on Election Day and during the entire early voting period; (2) are sick or disabled; (3) are 65 years of age or older on Election Day; or (4) are confined in jail, but eligible to vote. Moreover, Texas officials have threatened criminal prosecution of voters who attempt to cast mail ballots if they do not meet these narrow criteria. 99

Voting Outside the Polling Place Report, Table 2: Excuses to Vote Absentee, NAT'L CONFERENCE OF ST. LEGISLATURES (Apr. 20, 2020), https://www.ncsl.org/research/elections-and-campaigns/vopp-table-2-excuses-to-vote-absentee.aspx.

See Mot. to Intervene, Tex. Democratic Party v. Abbott, 5:20-cv-00438 (May 11, 2020), https://campaignlegal.org/sites/default/files/2020-05/2020.05.11%20-%20Motion%20to%20Intervene.ndf.

Tex. Election Code §§ 82.001-.004.

Ltr. to Rep. Stephanie Klick from Ryan M. Vassar, Deputy Attorney Gen. for Legal Counsel, Tex. Office of the Attorney Gen. (Apr. 14, 2020),

https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/4.14.20%20Letter %20to%20Rep.%20Klick.pdf?utm_c3ontent=&utm_medium=email&utm_name=&utm_source=govdel_ivery&utm_term=.

Latino voters in Texas are significantly younger than the average Texas voting population, which means they are disproportionately unable to avail themselves of the over-65 exception to the absentee eligibility criteria. ¹⁰⁰ This case remains pending in federal court, where CLC will continue to argue that Texas's eligibility requirements disproportionately harm Texas's Latino voters, even absent pandemic conditions.

ii. Absentee Voting Procedure

Equally important to eligibility is the accessibility of the vote by mail process. In most states and for most voters, absentee voting is both secure and accessible. But some states have anachronistic and unduly burdensome requirements for absentee voting that make it an illusory option even for those who qualify under the eligibility criteria. Alabama and Mississippi are two extreme examples. Alabama requires voters to send an application for absentee voting for every election to a special absentee election manager for the county, include a photocopy of their voter ID, and then return the ballot with a notary signature or the signature of two witnesses. ¹⁰¹ In Mississippi, an application to vote by mail must be notarized. ¹⁰²

This legislative session, politicians have targeted vote by mail accessibility from every angle. They have proposed bills to require photocopies of photo ID with vote by mail ballots, limit the time period for applying for and returning absentee ballots, and criminalize voter assistance in the vote by mail process, among other restrictions. In Kansas and Georgia, the legislatures passed bills that either outright prohibit or seriously restrict even the dissemination of applications to vote absentee to eligible voters. 103 These restrictions on absentee ballot distribution are clear restrictions on

See Complaint, Tex. Democratic Party v. Abbott, 5:20-ev-00438 at 12 (May 11, 2020), https://campaignlegal.org/sites/default/files/2020-05/2020.05.11A%20-%20Ex%201%20-%20Complaint.pdf.

Absentee Voting Information, ALA. SECRETARY OF St., https://www.sos.alabama.gov/alabama-yotes/voter/absentee-voting (last visited June 9, 2021).

Miss. Code Ann. §23-15-715(b)

Voting rights advocates sue over 2 new Kansas election laws, ASSOCIATED PRESS (June 2, 2021), https://apnews.com/article/kansas-voting-rights-laws-elections-voting-2e10b25e00158f9f08844c1f9493a2ea; Quinn Scanlan, Civic Groups File Lawsuit Challenging

get out the vote activity in violation of the First Amendment. CLC has challenged these laws in both states.

As vote by mail usage increases, it is crucial that we modernize our absentee voting laws. Too many states maintain unnecessary hurdles to the vote by mail process. For example, while Minnesota generally has expansive vote by mail access, its witness signature requirement poses a serious obstacle for many voters. CLC brought a lawsuit in Minnesota last year on behalf of individual plaintiffs and the League of Women Voters of Minnesota Education Fund, challenging that requirement. 104 While a number of states require absentee voters to have a witness sign the envelope of their absentee ballot, Minnesota is the only state that requires the witness to be registered to vote in Minnesota. This requirement is unworkable, not only for voters out-of-state who are unlikely to be proximate to other Minnesota registered voters, but also for voters who live in mixed citizenship status households. In order to register to vote in Minnesota, as in any every state, one must also be a U.S. Citizen. Voters who are newly naturalized citizens or first and second-generation immigrants are more likely to be the only citizens in their homes and communities. Therefore, unlike other Americans, who could easily have a family member serve as a witness for their absentee ballot, Minnesota voters in mixed citizenship status households face additional hurdles to cast an absentee ballot.

To further illustrate how cursory this requirement is, the only other option available to Minnesota voters who seek to vote absentee is to have a notary or someone otherwise authorized to administer oaths serve as a witness. Yet, there is no citizenship requirement to be a notary. Thus, a Minnesota voter who lives in a mixed citizenship status household or community is unable to have a non-U.S. citizen

Absentee Ballot Provisions in Georgia's Election Law, ABC NEWS (Apr. 8, 2021), https://abcnews.go.com/Politics/civic-groups-file-lawsuit-challenging-absentee-ballot-provisions/story?id=76945055.

 $See \ Complaint, \ League\ of\ Women\ Voters\ of\ Minn\ v.\ Simon,\ 20\text{-cv-}1205\ (ECT/TNL)\ (May\ 19,\ 2020),\ https://campaignlegal.org/sites/default/files/2020-05/2020%2005%2019%20Complaint%20for%20Declaratory%20and%20Injunctive%20Relief%20%28LWVM%20v.%20Simon%29%20v1.pdf.$

See Minn. R. 8210.0600, subp. 1a; Minn. R. 8210.3000, subp. 4b.

witness their absentee ballot for free, but if they pay a notary fee, they are able to have a non-citizen witness their absentee ballot. This is yet another example of how absentee ballot laws and restrictions in states around the country present minority voters with less of an opportunity to vote than white voters.

From start to finish, Tennessee makes vote by mail unduly difficult and inaccessible. While CLC has several pending lawsuits in Tennessee, two of them are particularly relevant to minority voters' opportunities to vote. One such case, Memphis A. Philip Randolph Institute v. Hargett, challenges Tennessee's strict limitations on who can vote by mail and the state's failure to allow voters to fix issues with their absentee ballots after they are rejected due to a perceived signature mismatch. 106 Among other things, Tennessee law does not allow most first-time voters to vote by mail even if they otherwise qualify under Tennessee's strict eligibility criteria. Thus, new voterswho are disproportionately young and of color-are locked out of absentee voting even when they have no way to present themselves to vote in person. The second lawsuit, Lichtenstein v. Hargett, challenges the state's criminal penalties, which punish voter advocacy organizations and individuals who distribute absentee ballot applications, even where a voter requests one and even though that form is available online. 107 CLC represents an individual plaintiff and five community organizations in these cases: Jeffrey Lichtenstein, Memphis A. Phillip Randolph Institute, The Equity Alliance, Free Hearts, Memphis Central Labor Council, and the Tennessee State Conference of the NAACP.

Our plaintiff organizations primarily engage in voter advocacy with minority voters in Tennessee, many of whom live in communities without access to reliable internet service, printers, and other technology required to download and print out absentee ballot applications. Tennessee's criminal penalties for sending these voters absentee ballot applications prohibit organizations like Tennessee NAACP and The Equity

See Complaint, Memphis A. Philip Randolph Institute v. Hargett, 3:20-cv-0374 (May 1, 2020), https://campaignlegal.org/sites/default/files/2020-05/COMPLAINT.PDF.

See Complaint, Lichtenstein v. Hargett, 3:20-cv-0736 (Aug. 28, 2020), https://campaignlegal.org/sites/default/files/2020-09/Lichtenstein%20Complaint.pdf.

Alliance from reaching as many Black voters as possible and ensuring they have an equal opportunity to vote.

iii. Absentee Voting Procedure

Even when voters are able to obtain absentee ballot applications and ultimately submit their absentee ballots, there is no guarantee that their vote will be counted because election officials have the discretion to reject a ballot if they perceive discrepancies in the voter's signature. This process, known as signature matching, has been shown to disproportionately discount the ballots of voters with disabilities, older voters, and voters who are non-native English speakers or racial minorities. Memphis A. Philip Randolph Institute v. Hargett is just one of several cases CLC has brought challenging states' deficient signature matching processes, which can result in the erroneous deprivation of voters' right to have their ballots counted—oftentimes without even providing voters with notice or an opportunity to cure any problems with their signatures.

In the lead-up to the 2020 election, Campaign Legal Center brought successful legal challenges to three states' signature matching procedures: New York, New Jersey, and Pennsylvania, which proved to be pivotal in last year's election.

New Jersey previously allowed election officials, who were not properly trained in signature analysis, to determine whether a voter's signature matched other signatures in their voter record and reject that voter's ballot without giving them prerejection notice or an opportunity to cure any perceived errors with their signatures.

This process resulted in numerous eligible New Jersey voters having their ballots rejected during May 2020 local elections in Paterson, New Jersey—including the deputy speaker of the New Jersey Assembly, his wife and two of his children. ¹⁰⁸ After CLC sued New Jersey on behalf of the League of Women Voters of New Jersey, the

Jayed Rahman, New Jersey Assembly Deputy speaker's mail-in vote rejected in Paterson election, PATERSON TIMES (May 23, 2020), https://patersontimes.com/2020/05/23/new-jersey-assembly-deputy-speakers-mail-in-vote-rejected-in-paterson-election/.

NAACP New Jersey State Conference and three individual voters, the State agreed to establish a notice-and-cure process that required election officials to notify a voter of a signature mismatch issue within 24 hours and give the voter an opportunity to fix any issues with their absentee ballot before discounting their vote. 109

In response to our lawsuit challenging Pennsylvania's signature verification process—which had no mandate in state law, was haphazardly applied by some counties and not others, and similarly did not include established standards for signature matching and did not require local officials to notify voters when their ballots were rejected or give them an opportunity to cure—Secretary of State Kathy Boockvar issued guidance to county board of elections advising them that Pennsylvania law did not permit them to reject absentee ballots solely because of a perceived signature mismatch. 110 And in New York, the state legislature passed a bill in response to a lawsuit CLC brought on behalf of plaintiffs including the League of Women Voters. 111 The new statute requires the Board of Elections to inform each absentee voter by phone or email, as well as by mail, of errors with their ballot and give them an opportunity to fix it. CLC's lawsuit ensured that New York, which had a 14 percent absentee ballot rejection rate in 2018, rejected far fewer voters in the 2020 general election. 112

Stipulation and Order, League of Women Voters of N.J. v. Way, 3:20-cv-05990, Doc. 44 (D.N.J. July 27, 2020).

Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes, PA. DEP'T OF ST. (Sept. 11, 2020), https://campaignlegal.org/sites/default/files/2020-09/Examination%20of%20Absentee%20and%20Mail-In%20Ballot%20Return%20Envelopes.pdf.

Katie Honan, New York Lawmakers Work to Avoid Problems With Absentee Ballots, WALL ST. JOURNAL (July 26, 2020), https://www.wsj.com/articles/new-vork-lawmakers-work-to-avoid-problems-with-absentee-ballots-11595782800; see also Complaint, League of Women Voters v. Kosinski, 1:20-cv-05238-MKV (July 8, 2020), https://campaignlegal.org/sites/default/files/2020-07/S.D.N.Y.%2020-cv-05238%20dckt%20000001 000%20filed%202020-07-08.pdf.

Edward McKinley, Deal Ensures Fewer Absentee Ballots Will Get Tossed in New York, TIMES UNION (last updated Sept. 17, 2020), https://www.timesunion.com/news/article/State-agrees-to-expand-review-process-for-nixed-

^{15575118.}php?utm_campaign=CMS%20Sharing%20Tools%20(Premium)&utm_source=t.co&utm_medium=referral.

C. Drop Boxes

Ballot drop boxes are another efficient and effective method for voters to safely and securely cast their ballots. Ballot drop boxes are arguably more reliable than the traditional USPS blue boxes, which many voters used to submit their absentee ballots prior to the COVID-19 pandemic. 113 Last year, approximately 41 percent of voters who voted absentee used ballot drop boxes, just 3 percent less than the percentage of voters who returned their ballots using the United States Postal Service. 114 Drop boxes were a key driver of 2020's historic voter turnout. Yet, in the midst of the expansion of this safe and secure opportunity to vote, Texas moved to restrict voters' ability to submit their absentee ballots using drop boxes.

In October of last year, just a month before the general election, Texas Governor Greg Abbott issued a proclamation prohibiting each of Texas's 254 counties from providing more than one mail ballot drop off location, regardless of the county's geographic size or population. 115 The Governor's order significantly limited Texas voters' options for hand-delivering their mail-in ballots in the 2020 General Election and upended weeks of planning by local election officials. 116 This eleventh-hour decision to limit access to safe ballot drop off locations so close to the election sowed mass confusion. Moreover, it disproportionately affected Black and Latino voters living in major metro areas,

[&]quot;Using an official drop box can be a more reliable option when there are concerns about the time it may take a ballot to go through the U.S. Postal Service." Elections Project Staff, *Drop Boxes Are Trusted Ballot Return Options*, BIPARTISAN POL. CTR. (Oct. 23, 2020),

https://bipartisanpolicy.org/blog/official-ballot-drop-boxes-are-secure-and-reliable/.

Sharp Divisions on Vote Counts, as Biden Gets High Marks for His Post-Election Conduct, PEW RES. CTR. (Nov. 20, 2020), https://www.pewresearch.org/politics/2020/11/20/the-voting-experience-in-2020/.

See Proclamation by Gov. Greg Abbott (Oct. 1, 2020),

 $[\]frac{\text{https://gov.texas.gov/uploads/files/press/PROC_COVID-19_Nov_3_general_election_IMAGE_10-01-2020.pdf.}{\text{pdf.}}$

Emma Platloff, Gov. Greg Abbott limits counties to one absentee ballot drop-off location, bolstering GOP efforts to restrict voting, Tex. Trib. (Oct. 1, 2020),

https://www.texastribune.org/2020/10/01/greg-abbott-texas-vote-mail; Nola Valente, Gov. Greg Abbott limits counties to 1 mail ballot drop-off location shortly after Fort Bend County adds more, COMMUNITY IMPACT NEWSPAPER (Oct. 1, 2020).

https://communityimpact.com/houston/katy/election/2020/10/01/gov-greg-abbott-limits-counties-to-l-mail-ballot-drop-off-location-shortly-after-fort-bend-county-adds-more/.

and voters who were entitled to vote by mail because they were older or had disabilities.

Campaign Legal Center Action (CLCA) represented two individual voters and plaintiff organizations including the League of Women Voters of Texas, Texas LULAC, the Mexican American Legislative Conference of the Texas House of Representatives, and the Texas Legislative Black Caucus in a federal lawsuit challenging Governor Abbott's proclamation immediately after he signed it into law.¹¹⁷

Governor Abbott's order targeted voting in highly populous and majority-minority counties like Harris County, which has 4.7 million residents—more than 26 states—and had set up 12 drop off locations spread out over roughly 1,700 square miles. The order forced the closure of 11 of those locations. In addition to harming voters living in high-population counties, Abbott's order also harmed large rural counties, like majority-minority Brewster County on the Texas-Mexico border. At 6,184 square miles, Brewster County is larger in area than the states of Rhode Island and Delaware combined. Yet Governor Abbott's order also restricted Brewster County to just one ballot drop off location.

Governor Abbott's proclamation created voter confusion and restricted voting options for minority voters in Texas. CLCA's lawsuit was successful at the district court level, but eventually overturned by the U.S. Court of Appeals for the Fifth Circuit. Ohio similarly moved to restrict the distribution of ballot drop boxes to one per county in 2020 and subsequently moved to make that restriction permanent earlier this year. There, as in Texas, a district court initially blocked the Secretary of State's "arbitrary and unreasonable" order before the U.S. Court of Appeals for the Sixth Circuit

See Complaint, LULAC v. Abbott, 1:20-cv-01006 (Oct. 1, 2020).

https://campaignlegal.org/sites/default/files/2020-10/Dkt%201%20-%20Complaint.pdf

QuickFacts: Brewster County, Texas, U.S. CENSUS BUREAU,

effectively reinstated the order. 119 The fates of our lawsuit and the lawsuit in Ohio against these racially discriminatory measures underscores the necessity of reviving the Voting Rights Act by passing the John Lewis Voting Rights Advancement Act.

D. Out-of-Precinct Voting

As explained above, oftentimes polling place quality and opportunities to vote issues merge together to create voting disasters, particularly in communities of color. See supra at II.B, Relocation of Polling Places. When polling places are closed, relocated, or consolidated, one of the most common mistakes that voters make afterwards is showing up to vote at the incorrect polling place. Allowing voters who make this understandable mistake to cast out-of-precinct provisional ballots is an equitable way to ensure that they have the opportunity to vote. Yet over the past few years, there have been efforts by states such as Arizona and Georgia to toss out the vote of any voter who shows up the wrong precinct.

This month, the Supreme Court is expected to issue its decision in *Brnovich v. DNC*, a case that the Court can use to either solidify Section 2 of the Voting Rights Act as one of the country's most effective defenses against racially discriminatory voting laws or significantly limit, if not all together eliminate, Section 2's efficacy as a tool to eradicate those laws. While *Brnovich* focuses on two voting issues, the first issue—a ban on out of precinct ballots—bears directly on minority voters' opportunities to vote.

Brnovich involves an Arizona law requiring voting officials to discard ballots cast in the wrong precinct, rather than counting the ballots for the races the voter was eligible to vote in and not counting any local races the voter was not eligible to vote

Andrew J. Tobias, Ohio judge says Secretary of State Frank LaRose's one ballot drop box per county rule is 'arbitrary and unreasonable', CLEVELAND.COM (Sept. 15, 2020), https://www.cleveland.com/open/2020/09/ohio-judge-rules-against-secretary-of-state-frank-laroses-arbitrary-and-unreasonable-one-ballot-drop-box-per-county-rule.html; Randy Ludlow, Split federal appeals court blocks multiple ballot drop boxes in Ohio counties, THE COLUMBUS DISPATCH (Oct 10, 2020), https://www.dispatch.com/story/news/2020/10/10/appeals-court-issues-stay-ballot-box-order/5951882002.

in because they voted at the incorrect precinct. The evidence in this case showed that Arizona's out-of-precinct policy targets voters of color, who are as much as two times as likely to cast an out-of-precinct ballot as white voters due to frequent polling place changes in minority communities. The U.S. Court of Appeals for the Ninth Circuit ruled that the out-of-precinct ban violates Section 2 of the Voting Rights Act. If the Ninth Circuit's decision is overruled and Section 2's protections against vote denial on the basis of race are weakened, the Court will have neutralized the strongest remaining provision of the Voting Rights Act of 1965 that remains after Shelby County.

Georgia's omnibus bill, S.B. 202, also includes a new ban on out-of-precinct ballots. Prior to S.B. 202's passage, Georgia voters who showed up the wrong precinct could cast a provisional ballot and have their votes counted in the elections they were eligible to vote in, such as statewide or national races. Now, voters who cast their ballots out-of-precinct will not have their provisional ballots counted unless they are voting at the incorrect precinct after 5:00 p.m. on the final day of voting. 120

This provision is especially troubling when combined with the new triggers that S.B. 202 includes for relocating polling places described above. See supra at II.B, Relocation of Polling Places. Not only does the formula all but ensure that polling places in minority communities will be disproportionately relocated, it will work in tandem with the out-of-precinct ban to prevent voters who show up to the wrong polling place from having their votes counted at all. Gaylon Tootle, a Black disability rights advocate from Augusta, Georgia explained how Georgia's new out-of-precinct policy will be doubly harmful for minority voters with disabilities. "You're not taking into account that I may have...a cognitive disability or learning disability, which sometimes causes me to simply make mistakes," Tootle explained. 121 "You're going to

Mark Niesse, How Georgia's Voting Law Works, ATLANTA J.-CONSTITUTION (May 6, 2021), https://www.ajc.com/politics/how-georgias-new-voting-law-works/GF6PLR44PNESPKR5FXCBE7VEOY.

Sanya Mansoor, Tt's Mean-Spirited. A Blind Disability Advocate on How Georgia's New Election Law Could Make Voting Even Harder, TIME (Apr. 14, 2021), https://time.com/5953063/disability-advocate-georgia-new-election-law.

have some Black and brown folk that go in there, simply made a mistake and their vote will be automatically cancelled." 122

E. Incarcerated Voters

While restrictions on opportunities to vote harm all voters, these restrictions most acutely impact voters that are already marginalized in our democracy. Incarcerated eligible voters provide a particularly salient example of this reality. Although thousands of eligible voters are incarcerated in jails in all 50 states, the vast majority of these voters are unable to participate because of the enormous barriers to the ballot box they confront. Because jailed voters are systematically denied in-person and Election Day voting opportunities, see supra at II.D, Polling Place Locations, they are often forced to rely on absentee voting.

But voting absentee while incarcerated, under the best of circumstances, is extremely challenging. 123 Incarcerated voters lack ready access to even the most basic instrumentalities of voting, including writing utensils, stamps, and ballot request forms. They also routinely lack information about elections, such as when an election is, how to request a ballot, and who will be on that ballot. The more restrictions are placed on absentee voting, then, the more complicated the task of voting becomes for incarcerated voters.

In Wisconsin, for example, where voters must submit a copy of a qualifying photo ID in order to request an absentee ballot, jailed voters will be disenfranchised unless they had a qualifying ID with them at the time of their incarceration and can obtain a copy of that ID from the sheriff at their jail. 124 In South Carolina, which requires absentee ballot request forms be signed by a witness, jailed voters in Sumter County

¹²² Ia

See Paikowsky, supra note 66; see also Ginger Jackson-Gleich & Rev. Dr. S. Todd Yeary, Eligible, but excluded: A guide to removing the barriers to jail voting, PRISON POLICY INST., https://www.prisonpolicy.org/reports/jail_voting.html (last visited June 6, 2021).

Ex-Felons and Incarcerated Voters, Wis. Gov't Accountability Bd., https://elections.wi.gov/sites/default/files/publication/154/voting-guide-for-ex-felons-incarcerated-voters-pd-24428.pdf (last visited June 6, 2021).

Jail were unable to submit their absentee ballot request forms in the spring of 2020 after the woman who ran the jail's programming was diagnosed with COVID-19. 125 For incarcerated voters in these states and others that require not only IDs or witness signatures, but also potentially notarization of absentee ballot request forms or ballots, the process of successfully voting can often require persistence or, worse, luck.

Even if incarcerated eligible voters are able to obtain and fully complete an absentee ballot request form, timely submitting these forms (and others, including registration forms and absentee ballots) can be challenging or even impossible. Incarcerated voters are not only forced to rely on the United States Postal Service—which, in 2020 was notably delayed in its services—to deliver their election materials, they also confront additional challenges from restrictive and delay-prone jail mail systems. ¹²⁶ In Maryland and Connecticut, advocates sought to obviate the need for incarcerated voters to confront these delays by asking their states to put drop boxes into the jails. These innovative efforts, however, were met with resistance and ultimately unsuccessful. ¹²⁷ The more restrictions that states put on accessibility mechanisms like drop boxes, the harder it becomes to find ways to ensure these voting options can serve the hardest to reach constituencies—like jailed voters—who crucially need them.

Kira Lerner, States Expect People to Risk Their Health Even When Voting by Mail, Advocates Warn, The Appeal (June 17, 2020) https://theappeal.org/politicalreport/absentee-ballots-witness-notary-requirements/.

Shawn Mulcahy, Cuts to USPS Threaten Voting Access for Hundreds of Thousands of Americans in Jails, THE GUARDIAN (Sept. 15, 2020) https://www.theguardian.com/us-news/2020/sep/15/usps-cuts-threaten-ballot-access-inmates. Restrictions on what size and type of mail can enter jails, as well as requirements related to the sealing and inspection of jail mail, have also prevented or complicated voting for incarcerated voters. Carlisle & Villa, supra note 72; Ballesteros & Heorner, supra note 72.

Voting from Jail in Connecticut: Legally Permitted, Practically Impossible, ARTHUR LIMAN CTR. FOR PUB. INT. L., YALE L. SCH. (Mar. 2021),

https://law.vale.edu/sites/default/files/area/center/liman/document/voting from jail information she et.pdf; Alison Knezevich & Emily Opilo, Maryland advocates working to ensure people in jail can still cast a ballot, Baltimore Sun (Oct 30, 2020), https://www.baltimoresun.com/politics/bs-md-voting-in-jails-20201030-67a2xv3nqvhupirtpfftiwo2gy-story.html; Bennett Leckrone, As other states move to restrict voting, the Maryland General Assembly passed bills to expand access, WTOP NEWS (April 23, 2021) https://wtop.com/maryland/2021/04/as-other-states-move-to-restrict-voting-the-maryland-general-assembly-passed-bills-to-expand-access/.

For incarcerated eligible voters, disenfranchisement comes in the way of death by a thousand cuts. It is not just the single imposition of an ID requirement on an absentee ballot request form or the failure to put a polling place in the jail that denies these voters access to our democracy, it is the cumulative impact of a system that has profoundly failed to account for the needs of an entire group of eligible voters. Incarcerated voters, too, represent a microcosm of historically marginalized voters. They are disproportionately people of color, low income people, people with disabilities, and homeless or transient individuals. ¹²⁸ In many instances, incarcerated voters are only incarcerated and thus unable to vote because of an inability to pay bail, meaning the bail imposed thus functions as a poll tax. ¹²⁹ Voters who spend even short durations of time in jail, too, are less likely to participate upon their release. ¹³⁰ Rather than making it harder for these voters to participate, we should be finding ways to reform our system to make it more inclusive.

IV. CONCLUSION

America knows what a weakened, toothless Voting Rights Act looks like. It looks like the free pass that states had to discriminate against minority voters in the period between the passage of the Fifteenth Amendment in 1870 and the passage of the Voting Rights Act in 1965. For nearly one hundred years, the Fifteenth Amendment was incapable of stopping the litany of tests, devices, and restrictions that white supremacists used to stop minorities from voting. If Congress fails to restore the full protections of the Voting Rights Act by reestablishing preclearance and strengthening Section 2, America risks going back to that dark time.

See Paikowsky, supra note 66.

¹²⁹ Id.

See Ariel White, Misdemeanor Disenfranchisement? The demobilizing effects of brief jail spells on potential voters, MIT Open Access Articles at 3, 21 (Oct. 2018), available at https://dspace.mit.edu/bitstream/handle/1721.1/128563/misdemeanor_draft_spring2018_0.pdf?sequence=2&isAllowed=y (finding that Black men who spent even short periods of time in jail were 13 percent less likely to cast ballots in upcoming elections, despite there being no change to their eligibility).

But this Congress has a historic opportunity to seize on the lessons of the 2020 election and modernize our voting system, create an equitable baseline of voting opportunities through H.R. 1/S. 1, and stop the onslaught of discriminatory voting proposals in every legislative session in its tracks by restoring preclearance. Campaign Legal Center urges Congress to prevent the backsliding of this nation's progress in voting rights and act quickly and decisively to protect the freedom to vote for all Americans.

Chairman BUTTERFIELD. And thank you for your testimony. At this time, the chair recognizes Ms. Longoria for five minutes. You are recognized.

STATEMENT OF ISABEL LONGORIA

Ms. LONGORIA. Thank you, Mr. Chair.

My name is Isabel Longoria, and I am the elections administrator of Harris County, home to Houston, Texas, and the third largest county in the United States, and one of the most diverse.

During the November 2020 Presidential election, despite a global pandemic, Harris County had a historic 1.68 million voters participate in a safe, accessible, transparent, and equitable manner. The increased turnout was driven by innovations like drive-thru voting, 24-hour voting, and a proactive mail ballot program, methods that intentionally and successfully increased voting in minority communities and reduced wait times.

For example, though only 38 percent of early voters in the Presidential election were Black, Latino, or Asian, 53 percent of those communities used drive-thru voting. The increased turnout has been sustained in multiple elections since, nearly doubling in our most recent local May elections.

However, instead of promoting and expanding these voting initiatives, in Texas, we have been met with lawsuits and extremist legislation to restrict these efforts, such as Texas Senate bill 7, stopped only by a quorum break just a few weeks ago, that would have hurt voters of color in voting in Harris County and beyond, and here is how.

First, forbidding election offices from sending mail ballot applications directly to voters. In Texas, where we have neither online voter registration nor online mail ballot applications, preventing our office from sending applications means that voters must bear the cost of printing and mailing their own applications annually, which they must also do, and it provides a system that disproportionately affects those without printers and computers, such as low-income; minority communities.

Second, expanding voter ID requirements to mail ballot applications, creating an unnecessary hurdle for the disabled and senior voters most likely to use mail ballots and for which we already have a proven signature verification process to validate.

Third, limiting voting hours by applying Jim Crow-esque sundown laws to voting, thereby banning 24-hour voting, which is often used in communities of color, and specifically preventing voting before 1 p.m. on Sundays, a direct attack on souls to the polls programs used at Black churches.

Fourth, preventing options like drive-thru voting, which have become a standard practice in Harris County over the past four elections, that reduce wait times, increase access for voting, and, again, are used more often by voters of colors than their peers.

Fifth, moving election day voting locations from Black, Latino, and Asian neighborhoods to primarily White neighborhoods in reaction to the fact that we increased, sometimes even doubling, the number of voting locations in our elections.

Sixth, giving poll watchers carte blanche at voting locations, a force that has been used historically and today to purposefully intimidate voters of color.

Seven, restricting access to voters with disabilities by limiting the disabilities that qualify for mail ballot voting and then forcing those voters to prove their disability, even going so far as to require extreme provision on family members and assistance during curbside voting, an option exclusively for people with disabilities.

While we await the Governor of Texas to call a special legislative session to pass these blatant low-income, minority, and disabled community voter suppression laws, I remind this Committee that none of these restrictions would be possible under a voting rights preclearance State, which is why I as an elections administrator believe the need for Federal intervention in the conduct of elections is clear and urgent, because without Federal intervention, Texas leaders will continue rewriting the State's election code to disproportionately harm voters of color.

And while everyone else gets to talk about it, I am the one who has to make it happen. So for those with the pithy argument that preclearance is just too much work for election offices like mine, give me a break. My duty as a civil servant is to jump through hoops so that the voters don't have to. No voter protection will ever be too onerous for me to implement when compared to the alter-

native of a weakened democracy.

So, in summation, Harris County, Texas supports Federal legislation that would provide nationally guaranteed fair elections free from voter suppression, restoring the full protections of the Voting Rights Act, including a preclearance process and other initiatives, like online voter registration and universal mail ballots that help voters vote.

And, with that, I look forward to your questions. [The statement of Ms. Longoria follows:]



To: U.S. House Committee on Administration, Subcommittee on Elections

From: Isabel Longoria, Harris County Elections Administrator
CC: Chairwoman Zoe Lofgren, Ranking Member Rodney Davis

Date: June 9th, 2021

Re: Testimony of Isabel Longoria, Harris County Elections Administrator

Hearing: Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot

Executive Summary:

The need for federal intervention into the conduct of elections in Texas is clear and urgent. In November 2020, despite a global pandemic, Harris County had a historic 1.68 million voters participate in the elections in a safe, accessible, transparent, and equitable manner. This turnout was driven by innovations like drive-thru voting (128,000 voters), "24 hour voting" (16,000 voters), and a robust mail ballot program (179,000 voters). These were part of the 28 S.A.F.E. Initiatives, planned and executed by a bi-partisan coalition of political parties and community partners in the July 2020, November 2020, December 2020, and May 2021 elections. In addition, these methods helped promote voting in minority communities, which helped create a more accurate representation of communities in the county.

Instead of celebrating and expanding these voter access initiatives, the Texas Legislature almost passed a wide-ranging Senate Bill 7 (SB 7) during its regular legislative session that would have hurt voters and voting across Texas, particularly in Harris County. SB 7 would have prohibited most of the innovations Harris County enacted in the last four elections to make voting a success, increase turnout, support voting access among minority communities, maintain health standards in a pandemic, and overall host secure and fair elections. While this wide-ranging and problematic elections bill died during the regular session, the Texas Governor has already committed to calling a special session to resurrect this alarming and harmful voting legislation. Without federal intervention, Texas leaders will rewrite the state election code in a manner that would disproportionately harm voters of color.

This assault on voting rights in Texas underscores the urgency for federal action. The initiatives used to support voter access in Texas would have been protected under the former pre-clearance system to avoid local efforts at discrimination. Therefore, we support federal legislation that would provide a national guarantee of free and fair elections without voter suppression, restore the full

¹ See Exhibits 7, 8, 13, 14, 17, 18

protections of the Voting Rights Act, including a pre-clearance process, and other innovative voter access programs. These are the solutions Texas and Harris County voters need to ensure the right to vote is protected from local legislation that puts a target on racial minorities.

This testimony demonstrates the specific manner in which Harris County voters would be affected by the passage of SB7 and similar extreme legislation.

Vote By Mail:

In November 2020, 179,156 voters voted by mail, a 76% increase from 2016 when 101,594 voted by mail.² In the November 2020 election, the Harris County elections department mailed all voters who were 65 or older an application to vote by mail to notify voters of one of their voting options, make it more accessible to people without their own computers or printers to print applications themselves, and provide excellent customer service. However, SB 7 would have prohibited an Elections Administrator from sending senior voters, or any voters, an application to vote by mail, a constituent-oriented process our seniors now depend on after four elections.³

SB 7 would add a new identification requirement for voters applying to vote by mail. Voters would need to provide a Texas driver's license number, personal identification number, last four digits of Social Security number, or submit a statement that the voter has not been issued any of those three options. 4 Both this requirement and the prohibition on sending applications to vote by mail will negatively impact poor seniors who are disproportionately racial minorities in Harris County. 5

SB 7 would create increased opportunities for mail ballots to be disqualified due to signature mismatch issues. The bill would have allowed elections officials to compare voter's signatures with those collected at any point in time as opposed to the current law's requirement to limit consideration to those collected in the past six years. This meant that mail ballots could possibly be disqualified because signatures did not match ones that were collected decades ago. This provision would have been particularly harmful to elderly voters and those who recently experienced disabilities as their signatures are most likely to have changed.

² See Exhibit 5: Vote By Mail by House District during November 2020 Presidential Election, Exhibit 6: Vote By Mail by Senate District during November 2020 Presidential Election

by Senate District during November 2020 Presidential Election

³ Senate Bill 7, Section 7.04, Sec. 276.016 https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0

Senate Bill 7, Section 5.03, https://irl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0
Seople 65+ Living Below Poverty, Houston State of Health, 2015-2019 American Community Survey, March 2021, https://www.houstonstateofhealth.com/indicators/index/view?indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicators/index/view?indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicators/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicators/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicators/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicators/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicators/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeld=2675&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicatorsl=343&localeChartIdxs=1">https://www.houstonstateofhealth.com/indicator

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Senate Bill 7, Section 5.09, https://irl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0

Expanded Hours:

In November 2020, 17,425 voters voted during the expanded hours of 7:00 p.m. to 7:00 a.m.⁷ Historically, polls in Texas are open from 7:00 a.m. to 7:00 p.m. During the July 2020 and November 2020 elections, the Harris County elections department kept polls open until 10:00 p.m. on two evenings and then open the entire night time for one evening, also known as "24 hour voting."8 Expanded hours were enacted to help medical workers, first responders, port workers, and others who needed access to voting after their work shifts or during a less crowded time due to COVID19. 9.10 However, SB 7 would have prohibited the Elections Administrator from opening polls before 6:00 a.m. or remaining open past 9:00 p.m. on weekdays and Saturdays.

This prohibition on expanded hours disproportionately hurts voters of color, particularly those who are Black and Hispanic. In the 2020 election, 40% of Harris County residents who voted in that election lived in State House districts that were majority or plurality Black, Hispanic, or mixed race. 12 However, of the Harris County voters who used expanded hours, 45% came from these majority or plurality Black, Hispanic, or mixed race districts. ¹³ Further, the bill would have prevented polls from opening before 1:00 p.m. on Sundays, which would have hurt Black churches' "Souls to the Polls" get-out-the-vote efforts. ¹⁴

In-Person Drive Thru Voting:

In November 2020, 128,302 voters voted using in-person drive thru voting. 15 For the July 2020, November 2020, December 2020 and May 2021 elections, the Elections Office opened multiple drive thru voting sites across the county that provided voting on the same machines and in the

⁷ See Exhibit 11: Use of Expanded Hours during November 2020 Presidential Election by State Representative District, Exhibit 16: Use of Expanded Hours during November 2020 Presidential Election by State Senate District 8 "More Than 9 Million People Voted Early In Texas. For One Day In Its Biggest County, They Voted All Night", Buzzfeed News, Oct. 31, 2020, https://www.buzzfeednews.com/article/mollyhensleyclancy/24-hours-texas-voting-

²⁰²⁰⁻election

⁹ "Meet the Harris County Voters Who Showed Up After Midnight to Cast a Ballot", Texas Monthly, Oct. 30,

^{2020, &}lt;a href="https://www.texasmonthly.com/news-politics/harris-county-24-hour-voting/">https://www.texasmonthly.com/news-politics/harris-county-24-hour-voting/
10 "In Texas, The Polls Open for A Graveyard Shift," New York Times, Nov. 1,

^{2020,} https://www.nytimes.com/2020/11/01/us/texas-overnight-voting-polls.html

Senate Bill 7, Section 3.09-3.10, https://irl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0

¹² See Exhibit 7: All November 2020 Voters by State Representative District's Predominant

¹³ See Exhibit 13: All November 2020 Extended Hours Voters by State Representative District's

Predominant Race

14 "Republicans say they'll tweak part of Texas elections bill criticized for impact on Black churchgoers", Texas

Tribune, Jun. 1, 2021, https://www.texastribune.org/2021/06/01/texas-voting-bill-sunday-republicans/

15 See Exhibit 15: Use of In-Person Drive Thru Voting during November 2020 Presidential Election by State

Representative District, Exhibit 16: Use of In-Person Drive Thru Voting during November 2020 Presidential Election by State Senate District

same manner as voting as all other in-person voting locations¹⁶. In-person drive thru voting was enacted to help voters who felt uncomfortable entering a walk-in voting location during a pandemic, desired a more convenient method of voting, or preferred a more accessible means of voting, such as seniors, families with small children, or people with health concerns.^{17,18,19} However, SB 7 would have banned in-person voting in tents or parking garages, making in-person drive thru voting impossible.20

This ban on in-person drive thru voting disproportionately hurts voters of color. As mentioned previously, in the 2020 election, 40% of Harris County residents who voted in that election, lived in State House districts that were majority or plurality Black, Hispanic, or mixed race. 21 However, of the Harris County voters who used in-person drive thru voting, 60% came from these majority or plurality Black, Hispanic, or mixed race districts.22

Polling Locations:

In November 2020, Harris County utilized 806 polls on Election Day. 23 A version of SB 7 that passed the Texas Senate would have required a calculation of "eligible voters" to determine the number of polls in a given district. "Eligible voters" is a new, undefined standard not otherwise in the Texas Election Code, which would be impossible to meet if strictly interpreted.²⁴

Several interpretations of the "eligible voters" provision of SB 7 would have affected the number

¹⁶ "Drive-thru voting this year? Here's what you need to know," WFAA ABC 8, Oct. 9, 2020, https://www.wfaa.com/article/news/local/drive-thru-voting-heres-what-to-know/285-af2066dd-bb92-4588-aa38-6fba9a574d79

17 "10 drive-thru voting sites give Harris County voters a safer option for casting ballots", KHOU, Oct. 2, 2020,

https://www.khou.com/article/news/politics/elections/drive-thru-voting-locations-in-harris-county/285-

⁹dcab117-45c8-473c-9d70-3841b05643db

18 "Drive-thru voting locations in Harris County see greater numbers than in-person, despite challenges", Community Impact, Oct. 17, 2020, https://communityimpact.com/houston/lake-houston-humble $\underline{kingwood/election/2020/10/17/drive-thru-voting-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-person-locations-in-harris-county-see-greater-numbers-than-in-harris-county-see-greater-numbers-than-in-harris-county-see-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-than-in-harris-greater-numbers-$

despite-challenges/

19 "HCC drive-thru, other nearby sites help boost Harris County record voting figures", Bellaire West University Essentials News, Oct. 15, 2020, https://www.essentialsnews.com/hcc-drive-thru-other-nearby-sites-help-boost-

²⁰ Senate Bill 7, Section 3.03 and Section 3.12-3.13, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0 ²¹ See Exhibit 7: All November 2020 Voters by State Representative District's Predominant

Race

²² See Exhibit 17: November 2020 Drive Thru Voters by State Representative District's

²³ See Exhibit 19: Distribution of Polls for Nov 2020 Election (Election Day) Compared to Changes Based on Various Interpretations of "Eligible Voters" Standard in SB7

²⁴ Senate Bill 7, Section 3.06(m)(2), https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00007E.pdf#navpanes=0

of November 2020 Election Day voting locations. Overall, this provision would have had the effect of drastically decreasing the number of polling places in areas with more voters of color. ²⁵ For example, in November 2020, District 141, which has the highest percentage of Black voters in Harris County, had 38 polls on Election Day

- If defined as registered voters, District 141 would have decreased to 27 polls.
- If defined as voting age population, then District 141 would have decreased to 31 polls.
- If defined as citizen voting age population, District 141 would have decreased to 30 polls.

This pattern of decreasing the number of polling locations was replicated in nearly all of the districts with majority minority, plurality minority, or mixed race district. Districts that were majority or plurality white would see an increase in their number of polling locations.

Criminalizing Election Workers:

SB 7 would throw dedicated civil servants in jail while allowing partisan poll watchers to run amok. 26 Many of Harris County election workers are seniors, volunteers, and precinct judges who dedicate their time and effort to making sure their neighborhood voting location runs smoothly. Most issues that arise, even after extensive training from our office, are the result of human error but are easily corrected. Instead of correcting these errors and re-educating the Judges and Clerks, the "strict interpretation" clause of SB 7 would necessitate a full investigation and possible jail time for even the smallest of infractions.27

Poll Watchers:

SB 7 would guarantee poll watchers "free movement" inside the polls and prevents election judges from being able to stop watchers from harassing and intimidating voters by imposing a misdemeanor on judges who attempt to "obstruct the view" or "distance" a poll watcher. ²⁸

This is worrisome because Harris County has a long history of poll watchers harassing and intimidating voters. In 2010, the Harris County Attorney received multiple complaints and even requested a monitor from the U.S. Department of Justice to observe the voting process because poll watchers at Black neighborhoods in Acres Homes and Northeast Houston were hovering over voters, getting into election workers' faces and blocking or disrupting lines of voters waiting to

^{25 &}quot;Polling places for urban voters of color would be cut under Texas Senate's version of voting bill being negotiated with House", Texas Tribune, May 23, 2021, https://www.texastribune.org/2021/05/23/texas-votingnegotiateu with nouse ; politing-restrictions/
26 Senate Bill 7, Section 7.01, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdffinavpanes=0
27 Senate Bill 7, Section 1.05, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdffinavpanes=0
28 Senate Bill 7, Section 1.05, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdffinavpanes=0

²⁸ Senate Bill 7, Sections 4,03 and 4.05, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0

cast their ballots. ^{29,30} These patterns continued in November 2020 and resulted in the Black presiding judge at the Northeast Houston voting location receiving death threats after an incident involving an illegal hidden camera at the poll. This reckless behavior by untrained poll watchers will only be emboldened by stripping Presiding Judges of their power to protect voters and other election workers in the moment.

Assistants and Caregivers

SB 7 would intimidate people from becoming assistants by making it easier to prosecute people who assist mail voters by increasing the technical requirements that assistants must comply with, banning assistants from answering voter questions, and boosting some associated criminal penalties.³¹ The bill also imposes new requirements on people who drive three or more non-relatives who are physically unable to vote indoors and require curbside assistance.³² The driver will need to submit their own personal information including why they are providing assistance, which will be submitted to the Attorney General. Further, while the voters in the vehicle are voting, the driver must exit the vehicle regardless of the weather conditions.³³

As the largest county in Texas with the greatest population of people with disabilities and limited English-proficient voters, SB 7 would be detrimental to Harris County. It will discourage assistants and caregivers from providing the help necessary for voters to cast their ballot, ^{34,35}ultimately leading to fewer people with disabilities and limited English proficiency from actually voting.

Overturn Elections

SB 7 would make it easier for plaintiffs to overturn an election. The bill lowers the evidentiary standard from "clear and convincing evidence" to "preponderance of the evidence" that a plaintiff must show about a candidate, campaign, or campaign agent violating Texas' election code. 36 The bill also allows for a greater range of lawsuits for courts to consider for voiding an election by looking only to whether "the number of votes illegally cast in the election is equal to or greater

²⁹ "Harris County warns parties to watch the poll-watchers," Houston Chronicle, Oct. 19, 2010,

https://www.chron.com/news/houston-texas/article/Harris-County-warns-parties-to-watch-the-1703190.php ³⁰ "Video shows GOP targeting Houston minority communities with poll watcher 'brigade," Houston Chronicle, Apr.

^{9, 2021,} https://www.houstonchronicle.com/politics/texas/article/video-shows-GOP-targeting-Houston-minority-16089177.php

³⁴ Senate Bill 7, Sections 6,04, 6.05 and 6.07, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0

³² Senate Bill 7, Section 6.01, https://irl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0
33 Senate Bill 7, Section 6.01(b-1), https://irl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0

Senate Bill 7, Section 6.01(b-1), https://iri.texas.gov/scanned/87ccrs/sb0007.pdf#navpar
 People with Disabilities: A Texas Profile, Texas Workforce Investment Council, June

^{2016,} https://gov.texas.gov/uploads/files/organization/twic/Disabilities Profile.pdf

³⁵ U.S. Department of Justice, 2015 Texas Mapping LEP Populations in Your Community - Number by

County, https://www.lep.gov/node/2971

³⁶ Senate Bill 7, Section 8.05, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0

than the number of votes necessary to change the outcome of an election" as opposed to whether illegal votes actually changed the outcome of the race. 37

³⁷ Senate Bill 7, Section 8.05, https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0

Appendix

Exhibit 1: Racial Demographics of State Representative Districts in Harris County^{38,39}

Dist	State Rep	Party	Citizen Voting Age Population	% White	% Black	% Hispanic	% Asiar
126	Harless	Republican	120,575	48%	19%	23%	9%
127	Huberty	Republican	131,100	59%	17%	21%	2%
128	Cain	Republican	127,585	58%	10%	29%	2%
129	Paul	Republican	127,375	56%	9%	23%	9%
130	Oliverson	Republican	142,040	64%	10%	17%	7%
131	Allen	Democrat	111,520	12%	51%	30%	6%
132	Schofield	Republican	145,880	46%	16%	30%	6%
133	Murphy	Republican	118,500	65%	11%	14%	8%
134	Johnson	Democrat	141,965	70%	6%	12%	10%
135	Rosenthal	Democrat	120,515	42%	19%	25%	12%
137	Wu	Democrat	72,360	28%	30%	30%	10%
138	Hull	Republican	104,055	46%	12%	31%	10%
139	Johnson	Democrat	112,315	18%	44%	31%	6%
140	Walle	Democrat	73,905	12%	15%	69%	3%
141	Thompson	Democrat	101,380	11%	59%	27%	1%
142	Dutton	Democrat	111,560	18%	47%	32%	2%
143	Hernandez	Democrat	85,005	18%	19%	61%	1%
144	Perez	Democrat	79,990	26%	5%	67%	0%
145	Morales	Democrat	96,870	22%	12%	62%	3%
146	Thierry	Democrat	102,810	24%	51%	18%	7%
147	Coleman	Democrat	131,065	30%	38%	25%	5%
148	Shaw	Democrat	99,205	42%	9%	46%	3%
149	Vo	Democrat	103,215	21%	25%	28%	24%
150	Swanson	Republican	144,880	57%	15%	20%	6%

³⁸ U.S. Census Bureau, Citizen Voting Age by Race and Ethnicity 2015-2019, https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/2015-2019-CVAP.html
³⁹ To visualize the predominant race of each district, percentages that are over 50% are highlighted in a more concentrated color and percentages that are greater than 40% but less than 50% are highlighted in a less concentrated color

Exhibit 2: Each State Representative District's Predominant Race⁴⁰

Dist	State Rep	Party	District Race ⁴¹
126	Harless	Republican	White Plurality
127	Huberty	Republican	White Majority
128	Cain	Republican	White Majority
129	Paul	Republican	White Majority
130	Oliverson	Republican	White Majority
131	Allen	Democrat	Black Majority
132	Schofield	Republican	White Plurality
133	Murphy	Republican	White Majority
134	Johnson	Democrat	White Majority
135	Rosenthal	Democrat	White Plurality
137	Wu	Democrat	Mixed Race
138	Hull	Republican	White Plurality
139	Johnson	Democrat	Black Plurality
140	Walle	Democrat	Hispanic Majority
141	Thompson	Democrat	Black Majority
142	Dutton	Democrat	Black Plurality
143	Hernandez	Democrat	Hispanic Majority
144	Perez	Democrat	Hispanic Majority
145	Morales	Democrat	Hispanic Majority
146	Thierry	Democrat	Black Majority
147	Coleman	Democrat	Mixed Race
148	Shaw	Democrat	Hispanic Plurality
149	Vo	Democrat	Mixed Race
150	Swanson	Republican	White Majority

⁴⁰ U.S. Census Bureau, Citizen Voting Age by Race and Ethnicity 2015-2019, https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/2015-2019-CVAP-html
https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/2015-2019-CVAP-html
<a href="https://www.census.gov/programs-surveys/decennial-census.gov/programs-gov/programs-surveys/decennial-census.gov/programs-gov/programs-gov/programs-gov/progr

Exhibit 3: Racial Demographics of State Senate Districts in Harris County 42,43

Dist	Senator	Party	Citizen Voting Age Population	% White	% Black	% Hispanic	% Asian
4	Creighton	Republican	639,355	67%	14%	15%	2%
6	Alvarado	Democrat	415,335	17%	17%	62%	2%
7	Bettencourt	Republican	614,505	53%	15%	21%	8%
11	Taylor	Republican	611,845	58%	12%	23%	5%
13	Miles	Democrat	488,805	16%	52%	23%	7%
15	Whitmire	Democrat	544,290	36%	27%	30%	5%
17	Huffman	Republican	591,015	52%	14%	19%	13%
18	Kolkhorst	Republican	632,285	55%	13%	24%	7%

Exhibit 4: Each State Senate District's Predominant Race⁴⁴

Dist	Senator	Party	District Race ⁴⁵
4	Creighton	Republican	White Majority
6	Alvarado	Democrat	Hispanic Majority
7	Bettencourt	Republican	White Majority
11	Taylor	Republican	White Majority
13	Miles	Democrat	Black Majority
15	Whitmire	Democrat	Mixed Race
17	Huffman	Republican	White Majority
18	Kolkhorst	Republican	White Majority

⁴² U.S. Census Bureau, Citizen Voting Age by Race and Ethnicity 2015-2019, https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/2015-2019-CVAP.html

⁴³ To visualize the predominant race of each district, percentages that are over 50% are highlighted in a more concentrated color and percentages that are greater than 40% but less than 50% are highlighted in a less concentrated color

44 U.S. Census Bureau, Citizen Voting Age by Race and Ethnicity 2015-2019, https://www.census.gov/programs-

Survey/decennial-census/about/voting-rights/cvap/2015-2019-CVAP.html

Survey/decennial-census/about/voting-rights/cvap/2015-2019-CVAP.html

Majority constitutes where a race of Citizen Voting Age Population is more than 50% of the district; Plurality constitutes the race of Citizen Voting Age Population with the largest population and is more than 40% but less than 50% in the district; Mixed Race constitutes districts where no racial group of Citizen Voting Age Population is greater than 40% of the district

Exhibit 5: Vote By Mail by House District during November 2020 Presidential Election⁴⁶

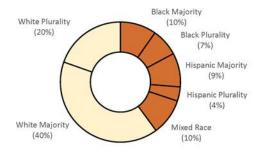
Dist	State Rep	Party	District Race	2016 Mail Votes	2016 Total Votes	% 2016 Mail Votes	2020 Mail Votes	2020 Total Votes	% 2020 Mail Votes
126	Harless	Rep	White Plurality	5,220	63,358	8%	8,709	76,299	11%
127	Huberty	Rep	White Majority	4,934	75,788	7%	8,956	93,817	10%
128	Cain	Rep	White Majority	4,337	60,760	7%	7,141	74,134	10%
129	Paul	Rep	White Majority	6,228	71,561	9%	11,001	88,299	12%
130	Oliverson	Rep	White Majority	4,629	83,140	6%	9,154	107,518	9%
131	Allen	Dem	Black Majority	3,538	47,579	7%	6,592	57,426	11%
132	Schofield	Rep	White Plurality	3,374	70,684	5%	7,807	104,155	7%
133	Murphy	Rep	White Majority	8,990	78,648	11%	14,545	92,045	16%
134	A. Johnson	Dem	White Majority	9,451	93,853	10%	17,830	112,533	16%
135	Rosenthal	Dem	White Plurality	3,025	61,736	5%	6,560	76,420	9%
137	Wu	Dem	Mixed Race	2,006	28,171	7%	3,727	33,544	11%
138	Hull	Rep	White Plurality	3,986	52,978	8%	7,418	66,721	11%
139	J. Johnson	Dem	Black Plurality	4,503	53,930	8%	6,987	63,990	11%
140	Walle	Dem	Hispanic Majority	2,149	28,671	7%	3,351	33,830	10%
141	Thompson	Dem	Black Majority	3,203	39,299	8%	4,888	45,563	11%
142	Dutton	Dem	Black Plurality	3,167	46,294	7%	5,312	58,612	9%
143	Hernandez	Dem	Hispanic Majority	2,571	34,332	7%	3,961	39,449	10%
144	Perez	Dem	Hispanic Majority	2,391	28,165	8%	3,290	32,747	10%
145	Morales	Dem	Hispanic Majority	2,512	36,015	7%	4,251	44,971	9%
146	Thierry	Dem	Black Majority	5,148	50,302	10%	8,441	57,738	15%
147	Coleman	Dem	Mixed Race	4,606	60,210	8%	7,740	72,112	11%
148	Shaw	Dem	Hispanic Plurality	3,334	49,995	7%	6,062	63,053	10%
149	Vo	Dem	Mixed Race	3,006	45,078	7%	6,172	56,332	11%
150	Swanson	Rep	White Majority	5,286	78,351	7%	9,261	100,196	9%

 $[\]label{eq:controller} {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACyZL6RUaDqennGbmKMbjiPa?dl=Q} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator, November 2020 Full Roster,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ Harris County Elections Administrator,} \\ \mbox{ } {}^{46} \mbox{ } {}$

Exhibit 6: Vote By Mail by Senate District during November 2020 Presidential Election⁴⁷

Dist	State Rep	Party	District Race	2016 Mail Votes	2016 Total Votes	% 2016 Mail	2020 Mail Votes	2020 Total Votes	% 2020 Mail
4	Creighton	Republican	White Majority	4,663	62,376	7%	8,150	82,911	10%
6	Alvarado	Democrat	Hispanic Majority	11,273	147,335	8%	17,800	186,307	10%
7	Bettencourt	Republican	White Majority	22,161	317,395	7%	41,276	428,995	10%
11	Taylor	Republican	White Majority	9,299	99,009	9%	15,699	131,746	12%
13	Miles	Democrat	Black Majority	15,712	161,344	10%	26,560	206,674	13%
15	Whitmire	Democrat	Mixed Race	17,975	241,291	7%	31,898	324,731	10%
17	Huffman	Republican	White Majority	19,774	193,466	10%	35,892	256,173	14%
18	Kolkhorst	Republican	White Majority	737	15,088	5%	1,887	29,541	6%

Exhibit 7: All November 2020 Harris County Voters by State Representative District's Predominant Race⁴⁸



⁴⁷ Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACvZL6RUaDgennGbmKMbjJPa?dl=0 ⁴⁸ Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACvZL6RUaDgennGbmKMbjJPa?dl=0

Exhibit 8: All November 2020 Harris County Voters by State Senate District's Predominant Race 49

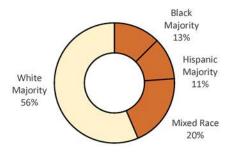
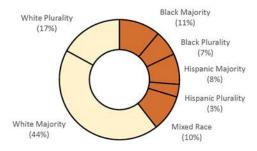


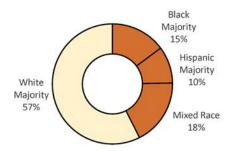
Exhibit 9: November 2020 Harris County Mail Voters by State Representative District's Predominant Race $^{50}\,$



⁴⁹ Harris County Elections Administrator, November 2020 Full Roster,

https://www.dropbox.com/sh/fg/vbrj8tg@oxtf/AACvZtGRUaDqennGbmKMbj/Pa?dl=0 50 Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg/vbrj8tg0oxtf/AACvZtGRUaDqennGbmKMbj/Pa?dl=0

Exhibit 10: November 2020 Harris County Mail Voters by State Senate District's Predominant Race^{S1}



⁵³ Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACyZL6RUaDgennGbmKMbjJPa?dl=0

Exhibit 11: Use of Expanded Hours during November 2020 Presidential Election by State Representative District $^{\rm S2}$

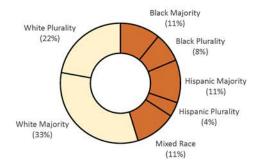
Dist	State Rep	District Race	Party	# Voters 7pm – 7am	# Voters All Hours on Same Days	% Voters During Extended vs All Hours
126	Harless	White Plurality	Republican	884	12,735	7%
127	Huberty	White Majority	Republican	739	14,572	5%
128	Cain	White Majority	Republican	646	11,629	6%
129	Paul	White Majority	Republican	657	13,450	5%
130	Oliverson	White Majority	Republican	1,098	18,057	6%
131	Allen	Black Majority	Democrat	710	9,494	7%
132	Schofield	White Plurality	Republican	1,235	17,997	7%
133	Murphy	White Majority	Republican	694	13,424	5%
134	A. Johnson	White Majority	Democrat	948	15,798	6%
135	Rosenthal	White Plurality	Democrat	997	13,308	7%
137	Wu	Mixed Race	Democrat	416	5,961	7%
138	Hull	White Plurality	Republican	744	11,015	7%
139	J. Johnson	Black Plurality	Democrat	684	10,468	7%
140	Walle	Hispanic Majority	Democrat	510	6,876	7%
141	Thompson	Black Majority	Democrat	558	7,899	7%
142	Dutton	Black Plurality	Democrat	688	9,823	7%
143	Hernandez	Hispanic Majority	Democrat	470	6,872	7%
144	Perez	Hispanic Majority	Democrat	455	6,290	7%
145	Morales	Hispanic Majority	Democrat	580	8,090	7%
146	Thierry	Black Majority	Democrat	616	8,898	7%
147	Coleman	Mixed Race	Democrat	848	11,760	7%
148	Shaw	Hispanic Plurality	Democrat	683	10,639	6%
149	Vo	Mixed Race	Democrat	667	8,887	8%
150	Swanson	White Majority	Republican	898	16,463	5%

⁵² Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACyZL6RUaDqennGbmKMbjiPa?dl=0

Exhibit 12: Use of Expanded Hours during November 2020 Presidential Election by State Senate District $^{\rm S3}$

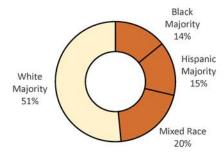
Dist	Senator	District Race	Party	# Voters 7pm - 7am	# Voters All Hours on Same Days	% Voters During Extended vs All Hours
4	Creighton	White Majority	Republican	587	12,882	5%
6	Alvarado	Hispanic Majority	Democrat	2,527	35,564	7%
7	Bettencourt	White Majority	Republican	4,647	71,043	7%
11	Taylor	White Majority	Republican	1,112	20,059	6%
13	Miles	Black Majority	Democrat	2,467	33,628	7%
15	Whitmire	Mixed Race	Democrat	3,457	53,620	6%
17	Huffman	White Majority	Republican	2,341	38,595	6%
18	Kolkhorst	White Majority	Republican	287	5,014	6%

Exhibit 13: All November 2020 Harris County Extended Hours Voters by State Representative District's Predominant Race $^{\rm S4}$



s3 Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACvZL6RUaDqennGbmKMbjJPa?dl=0 54 Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACvZL6RUaDqennGbmKMbjJPa?dl=0

Exhibit 14: All November 2020 Harris County Extended Hours Voters by State Senate District's Predominant Race⁵⁵



⁵⁵ Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACvZL6RUaDqennGbmKMbjJPa?dl=0

Exhibit 15: Use of In-Person Drive Thru Voting during November 2020 Presidential Election by State Representative District 56

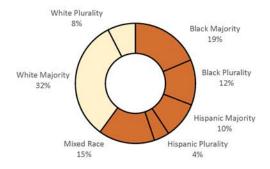
127 Huberty White Majority Republican 10,019 93,817 11% 128 Cain White Majority Republican 1,842 74,134 2% 129 Paul White Majority Republican 1,152 88,299 1% 130 Oliverson White Majority Republican 1,495 107,518 1% 131 Allen Black Majority Democrat 8,763 57,426 15% 132 Schofield White Plurality Republican 1,275 104,155 1% 133 Murphy White Majority Republican 3,894 92,045 4% 134 A. Johnson White Majority Democrat 19,743 112,533 18% 135 Rosenthal White Plurality Democrat 1,689 76,420 2% 137 Wu Mixed Race Democrat 2,956 33,544 9% 139 J. Johnson Black Plurality Democrat 1,	Dist	State Rep	District Race	Party	Drive Thru Voters	2020 Voters	% 2020 Voters
128 Cain White Majority Republican 1,842 74,134 2% 129 Paul White Majority Republican 1,152 88,299 1% 130 Oliverson White Majority Republican 1,495 107,518 1% 131 Allen Black Majority Democrat 8,763 57,426 15% 132 Schofield White Plurality Republican 1,275 104,155 1% 133 Murphy White Majority Republican 3,894 92,045 4% 134 A. Johnson White Majority Democrat 19,743 112,533 18% 135 Rosenthal White Plurality Democrat 2,956 33,544 9% 137 Wu Mixed Race Democrat 1,535 66,721 2% 139 J. Johnson Black Plurality Democrat 1,959 33,830 6% 141 Thompson Black Majority Democrat 1,959	126	Harless	White Plurality	Republican	5,155	76,299	7%
129 Paul White Majority Republican 1,152 88,299 1% 130 Oliverson White Majority Republican 1,495 107,518 1% 131 Allen Black Majority Democrat 8,763 57,426 15% 132 Schofield White Plurality Republican 1,275 104,155 1% 133 Murphy White Majority Democrat 1,689 92,045 4% 134 A. Johnson White Majority Democrat 1,689 76,420 2% 137 Wu Mixed Race Democrat 2,956 33,544 9% 138 Hull White Plurality Democrat 1,535 66,721 2% 139 J. Johnson Black Plurality Democrat 7,877 63,990 12% 140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Plurality Democrat 5,518	127	Huberty	White Majority	Republican	10,019	93,817	11%
130 Oliverson White Majority Republican 1,495 107,518 1%	128	Cain	White Majority	Republican	1,842	74,134	2%
131 Allen Black Majority Democrat 8,763 57,426 15% 132 Schofield White Plurality Republican 1,275 104,155 1% 133 Murphy White Majority Republican 3,894 92,045 4% 134 A. Johnson White Majority Democrat 19,743 112,533 18% 135 Rosenthal White Plurality Democrat 1,689 76,420 2% 137 Wu Mixed Race Democrat 2,956 33,544 9% 138 Hull White Plurality Republican 1,535 66,721 2% 139 J. Johnson Black Plurality Democrat 1,959 33,830 6% 140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Majority Democrat 7,818 58,612 13% 142 Dutton Black Plurality Democrat 7,818<	129	Paul	White Majority	Republican	1,152	88,299	1%
132 Schofield White Plurality Republican 1,275 104,155 1% 133 Murphy White Majority Republican 3,894 92,045 4% 134 A. Johnson White Majority Democrat 19,743 112,533 18% 135 Rosenthal White Plurality Democrat 2,956 33,544 9% 137 Wu Mixed Race Democrat 2,956 33,544 9% 138 Hull White Plurality Republican 1,535 66,721 2% 139 J. Johnson Black Plurality Democrat 7,877 63,990 12% 140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Plurality Democrat 5,518 45,563 12% 142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat <	130	Oliverson	White Majority	Republican	1,495	107,518	1%
133 Murphy White Majority Republican 3,894 92,045 4% 134 A. Johnson White Majority Democrat 19,743 112,533 18% 135 Rosenthal White Plurality Democrat 1,689 76,420 2% 137 Wu Mixed Race Democrat 2,956 33,544 9% 138 Hull White Plurality Republican 1,535 66,721 2% 139 J. Johnson Black Plurality Democrat 7,877 63,990 12% 140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Plurality Democrat 5,518 45,563 12% 142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,	131	Allen	Black Majority	Democrat	8,763	57,426	15%
134 A. Johnson White Majority Democrat 19,743 112,533 18% 135 Rosenthal White Plurality Democrat 1,689 76,420 2% 137 Wu Mixed Race Democrat 2,956 33,544 9% 138 Hull White Plurality Republican 1,535 66,721 2% 139 J. Johnson Black Plurality Democrat 7,877 63,990 12% 140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Plurality Democrat 5,518 45,563 12% 142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat <td< td=""><td>132</td><td>Schofield</td><td>White Plurality</td><td>Republican</td><td>1,275</td><td>104,155</td><td>1%</td></td<>	132	Schofield	White Plurality	Republican	1,275	104,155	1%
135	133	Murphy	White Majority	Republican	3,894	92,045	4%
137 Wu Mixed Race Democrat 2,956 33,544 9% 138 Hull White Plurality Republican 1,535 66,721 2% 139 J. Johnson Black Plurality Democrat 7,877 63,990 12% 140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Majority Democrat 5,518 45,563 12% 142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14% 148 Shaw Hispanic Plurality Democrat 7,943 56,332 14% 149 Vo Mixed Race Democrat 7,943 56,332 14% 149 Vo Mixed Race Democrat 7,943 56,332 14% 140 Mixed Race Democrat 7,943 56,332 14% 141 Thierry Thierry	134	A. Johnson	White Majority	Democrat	19,743	112,533	18%
138 Hull White Plurality Republican 1,535 66,721 2% 139 J. Johnson Black Plurality Democrat 7,877 63,990 12% 140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Majority Democrat 5,518 45,563 12% 142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943	135	Rosenthal	White Plurality	Democrat	1,689	76,420	2%
139 J. Johnson Black Plurality Democrat 7,877 63,990 12% 140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Majority Democrat 5,518 45,563 12% 142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	137	Wu	Mixed Race	Democrat	2,956	33,544	9%
140 Walle Hispanic Majority Democrat 1,959 33,830 6% 141 Thompson Black Majority Democrat 5,518 45,563 1.2% 142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	138	Hull	White Plurality	Republican	1,535	66,721	2%
141 Thompson Black Majority Democrat 5,518 45,563 12% 142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 8,538 72,112 12% 148 Shaw Hispanic Plurality Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	139	J. Johnson	Black Plurality	Democrat	7,877	63,990	12%
142 Dutton Black Plurality Democrat 7,818 58,612 13% 143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 8,538 72,112 12% 148 Shaw Hispanic Plurality Democrat 5,350 63,053 3% 149 Vo Mixed Race Democrat 7,943 56,332 14%	140	Walle	Hispanic Majority	Democrat	1,959	33,830	6%
143 Hernandez Hispanic Majority Democrat 2,301 39,449 6% 144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 8,538 72,112 12% 148 Shaw Hispanic Plurality Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	141	Thompson	Black Majority	Democrat	5,518	45,563	12%
144 Perez Hispanic Majority Democrat 4,502 32,747 14% 145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 8,538 72,112 12% 148 Shaw Hispanic Plurality Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	142	Dutton	Black Plurality	Democrat	7,818	58,612	13%
145 Morales Hispanic Majority Democrat 3,863 44,971 9% 146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 8,538 72,112 12% 148 Shaw Hispanic Plurality Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	143	Hernandez	Hispanic Majority	Democrat	2,301	39,449	6%
146 Thierry Black Majority Democrat 9,600 57,738 17% 147 Coleman Mixed Race Democrat 8,538 72,112 12% 148 Shaw Hispanic Plurality Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	144	Perez	Hispanic Majority	Democrat	4,502	32,747	14%
147 Coleman Mixed Race Democrat 8,538 72,112 12% 148 Shaw Hispanic Plurality Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	145	Morales	Hispanic Majority	Democrat	3,863	44,971	9%
148 Shaw Hispanic Plurality Democrat 5,350 63,053 8% 149 Vo Mixed Race Democrat 7,943 56,332 14%	146	Thierry	Black Majority	Democrat	9,600	57,738	17%
149 Vo Mixed Race Democrat 7,943 56,332 14%	147	Coleman	Mixed Race	Democrat	8,538	72,112	12%
	148	Shaw	Hispanic Plurality	Democrat	5,350	63,053	8%
150 Swanson White Majority Republican 3,515 100,196 4%	149	Vo	Mixed Race	Democrat	7,943	56,332	14%
	150	Swanson	White Majority	Republican	3,515	100,196	4%

⁵⁶ Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACyZL6RUaDqennGbmKMbjJPa?dl=0

Exhibit 16: Use of In-Person Drive Thru Voting during November 2020 Presidential Election by State Senate District $^{\rm 87}$

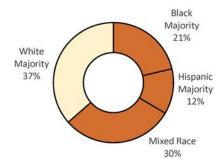
Dist	Senator	District Race	Party	Drive Thru Voters	2020 Voters	% 2020 Voters
4	Creighton	White Majority	Republican	2,769	82,911	3%
6	Alvarado	Hispanic Majority	Democrat	15,617	186,307	8%
7	Bettencourt	White Majority	Republican	11,443	428,995	3%
11	Taylor	White Majority	Republican	3,220	131,746	2%
13	Miles	Black Majority	Democrat	27,333	206,674	13%
15	Whitmire	Mixed Race	Democrat	38,586	324,731	12%
17	Huffman	White Majority	Republican	29,072	256,173	11%
18	Kolkhorst	White Majority	Republican	262	29,541	1%

Exhibit 17: November 2020 Harris County Drive Thru Voters by State Representative District's Predominant Race58



⁵⁷ Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACvZl6RUaDqennGbmKMbjJPa?dl=0 ⁵⁸ Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACvZl6RUaDqennGbmKMbjJPa?dl=0

Exhibit 18: November 2020 Harris County Drive Thru Voters by State Senate District's Predominant Race $^{\rm 59}$



⁵⁹ Harris County Elections Administrator, November 2020 Full Roster, https://www.dropbox.com/sh/fg7vbrj8tg0oxlt/AACyZL6RUaDgennGbmKMbjJPa?dl=0

Exhibit 19: Distribution of Polls for Nov 2020 Election (Election Day) Compared to Changes Based on Various Interpretations of "Eligible Voters" Standard in SB7
*Green denotes that a House District would gain voting locations relative to November 2020

allocations.

**Pink denotes that a House District would lose voting locations relating to November 2020.

Dist	State Rep	Race	Party	2020 Polls ⁶⁰	SB7 Registered Voters ⁶¹	SB7 Voting Age Population ⁶²	SB 7 Citizen Voting Age Population ⁶³
126	Harless	White Plurality	Republican	33	36	34	36
127	Huberty	White Majority	Republican	32	42	33	39
128	Cain	White Majority	Republican	38	36	33	38
129	Paul	White Majority	Republican	40	40	34	38
130	Oliverson	White Majority	Republican	34	47	37	42
131	Allen	Black Majority	Democrat	34	30	35	33
132	Schofield	White Plurality	Republican	32	48	39	43
133	Murphy	White Majority	Republican	34	39	35	35
134	Johnson	White Majority	Democrat	51	47	38	42
135	Rosenthal	White Plurality	Democrat	27	36	33	36
137	Wu	Mixed Race	Democrat	23	19	33	22
138	Hull	White Plurality	Republican	28	31	33	31
139	Johnson	Black Plurality	Democrat	35	33	34	33
140	Walle	Hispanic Majority	Democrat	29	22	29	22
141	Thompson	Black Majority	Democrat	38	27	31	30
142	Dutton	Black Plurality	Democrat	37	31	32	33
143	Hernandez	Hispanic Majority	Democrat	29	23	29	25
144	Perez	Hispanic Majority	Democrat	25	21	28	24
145	Morales	Hispanic Majority	Democrat	31	25	31	29
146	Thierry	Black Majority	Democrat	36	30	34	31
147	Coleman	Mixed Race	Democrat	45	38	37	39
148	Shaw	Hispanic Plurality	Democrat	36	30	32	30
149	Vo	Mixed Race	Democrat	23	29	34	31
150	Swanson	White Majority	Republican	36	46	37	43

⁶⁰ Harris County Elections Administrator, November 3, 2020 General and Special Elections Polling Locations https://www.dropbox.com/sh/fg7vbrj8tg0oxtt/AAC/ZLGRUaDqennGbmKMbjIPa?dl=0 61 Harris County Elections Administrator, November 2020 Canvass Report, https://www.harrisvotes.com/HISTORY/20201103/Official%20Canvass.pdf 62 Texas Legislative Council, District Profile Information, https://tc.texas.gov/data 63 U.S. Census Bureau, Citizen Voting Age by Race and Ethnicity 2015-2019, https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/2015-2019-CVAP.html

Exhibit 20: November 2020 Election Day Polls by State Representative District's Predominant Race 64

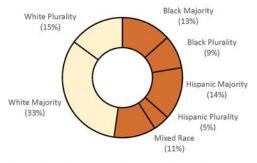
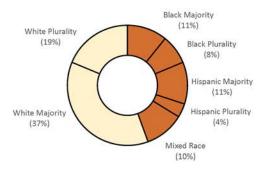


Exhibit 21: Registered Voters Allocation for Election Day Polls by State Representative District's Predominant Race 65



⁶⁴ Harris County Elections Administrator, November 3, 2020 General and Special Elections Polling Locations

https://www.dropbox.com/sh/fg/vbrj8tg@oxtf/AACVZL6RUaDgennGbmKMbjiPa?dl=0

65 Harris County Elections Administrator, November 2020 Canvass Report,
https://www.harrisvotes.com/HISTORY/20201103/Official%20Canvass.pdf

Exhibit 22: Voting Age Population Allocation for Election Day Polls by State Representative District's Predominant Race⁶⁶

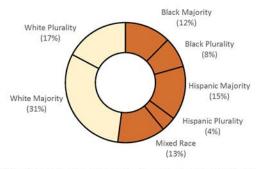
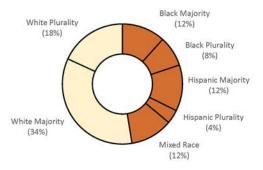


Exhibit 23: Citizen Voting Age Population Allocation of Election Day Polls by State Representative District's Predominant Race 67



⁶⁴ Texas Legislative Council, District Profile Information, https://tlc.texas.gov/data
⁶⁷ U.S. Census Bureau, Citizen Voting Age by Race and Ethnicity 2015-2019, https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/2015-2019-CVAP.html

Chairman BUTTERFIELD. Thank you for your testimony. At this time, the chair recognizes Ms. Titus for five minutes.

STATEMENT OF ASHLEE TITUS

Ms. TITUS. Thank you, Chairman Butterfield, Ranking Member Steil, and members of the Committee, for allowing me to speak today on the important issue of free and fair access to the ballot.

It is essential to a functioning and enduring democracy and ensures all eligible voters can vote and be confident that their votes count. It means that citizens recognize the election as free and fair and, therefore, accept the results of an election, no matter which candidate wins. Safeguards that protect the freedom and fairness of the entire election process give the American people that confidence in the election results.

My name is Ashlee Titus. I am an attorney at Bell, McAndrews & Hiltachk in Sacramento, California, specializing in campaign finance and election law. As part of my practice, I organize lawyers to observe elections in California, and have been an observer myself in several California counties over the last 17 years.

I also serve as the secretary and on the board of directors of Lawyers Democracy Fund, a nonprofit, nonpartisan organization dedicated to promoting the role of ethics and legal professionalism in the electoral process. LDF's research focuses on the effectiveness of current election methods and, in particular, on voter confidence.

As this Committee explores the intersection of ballot access and election security, it is vital to keep in mind the current crisis in voter confidence. Recent polls indicate that an astonishing 41 percent of voters say the November election was not well run, and 39 percent of people did not have confidence in the 2020 election results.

It is not a lack of ballot access that prevents voters from participating; it is a lack of voter confidence in the voting system. The Knight Foundation found in early 2020 that 38 percent of nonvoters do not believe election results accurately reflect the will of the people.

Voter confidence is the real issue at hand, and the only way to increase confidence is to implement and maintain effective ballot integrity safeguards. Efforts to expand voting opportunities and maintain effective ballot integrity—opportunities have unfortunately not been effective in increasing voter participation.

For example, studies consistently show that early voting does not increase turnout and actually risks reducing turnout. This is because it shifts existing voters from election day to early voting without recruiting new voters, raises the cost and complication of get-out-to-vote efforts, and decreases focus on election day as a civic event.

My home State of California has perhaps the most open ballot access laws in the country. Yet in spite of California's ballot access laws, which are designed to optimize opportunities to vote, often at the expense of the integrity of elections, California's voter turnout in 2020 was average compared to other States across the country.

Not only do laws aimed at increasing opportunities to vote often fail to increase voter turnout, when they are enacted without proper safeguards, they risk undermining the entire electoral system

they are trying to improve.

Consider laws allowing for third-party ballot collection, also known as ballot harvesting or ballot trafficking. This is where someone other than the voter, often a paid political operative, collects and returns any number of voters' mail ballots. Unscrupulous harvesters can pressure voters to cast their ballot in a particular way and, in doing so, undermine the secrecy of the ballot box, a long-held essential principle of American elections intended to preserve the right to vote one's conscience.

The sad reality is that those at most risk from coercion or disenfranchisement by an unscrupulous ballot harvester are the most vulnerable in our society. But even as States put meaningful limitations on ballot harvesting to ensure integrity, allowing 24-hour unmonitored drop boxes to receive voted ballots makes these limi-

tations nothing more than words on paper.

Unmonitored drop boxes create de facto unlimited ballot harvesting and present a genuine risk to the security of every voter's ballot deposited in such a box. Drop boxes need extensive physical security protections to prevent voting ballots from being destroyed or lost and systematic procedures implemented by elections officials to timely and securely retrieve ballots and deliver them to their office for processing.

The solution to increasing voter participation is not to force California's constantly changing rules on the entire country. It is to build voter confidence through the enactment of effective election security safeguards and clear procedures established well in advance of an election to allow voters time to understand and election

administrators time to implement.

Each State should be free to enact the appropriate election methods that serve the diverse needs of its electorate, coupling procedures that make voting more accessible with safeguards that protect the integrity of the process. No State needs to look the same. One State can restrict ballot harvesting while providing mobile voting units to rural voters, and another could expand ballot harvesting—or a voting law providing strong chain of custody laws and monitored drop boxes.

Thank you for the opportunity to present my comments and my

perspective to the Committee.

[The statement of Ms. Titus follows:]



WRITTEN STATEMENT OF ASHLEE N. TITUS

PARTNER, BELL, MCANDREWS & HILTACHK, LLP SECRETARY AND BOARD MEMBER, LAWYERS DEMOCRACY FUND

VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR ACCESS TO THE BALLOT

THE COMMITTEE ON HOUSE ADMINISTRATION U.S. HOUSE OF REPRESENTATIVES

JUNE 11, 2021

Thank you, Chairperson Butterfield, Ranking Member Steil, and members of the Committee for allowing me to speak before you today. The conversation before the Committee today is vitally important. Free and fair access to the ballot is essential to a functioning and enduring democracy.

Free and fair access ensures that all eligible voters can vote and be confident that their votes count. It means that citizens recognize the election as free and fair and therefore accept the results of an election no matter which candidate wins. Safeguards that protect the freedom and fairness of the entire election process give the American people that confidence in the election results. I am excited to address the Committee today on these important issues.

My name is Ashlee Titus. I am an attorney at Bell, McAndrews, & Hiltachk in Sacramento, California specializing in campaign finance and election law. As part of my election law practice, I organize lawyers to observe elections in California and have been an observer myself in several California counties over the last 17 years.

I also serve as the Secretary and on the Board of Directors for Lawyers Democracy Fund, a nonprofit, nonpartisan organization dedicated to promoting the role of ethics and legal professionalism in the electoral process. LDF's research focuses on in the effectiveness of current election methods, and in particular on voter confidence.

Statement of Ashlee N. Titus June 11, 2021 Page 1 of 9 As this committee explores the intersection of ballot access and election security, it is vital to keep in mind the current crisis in voter confidence. The Pew Research Center reported that an astonishing 41% of voters say the November election was not run well. In a poll conducted by the California Institute of Technology, 39% of respondents nationwide did not have confidence in the 2020 election results.²

There are many threats to election integrity that have led to the current crisis in voter confidence. Errors by election administrators, lack of transparency, and rapidly changing laws and rules were some of the problems in 2020. It is vital for basic due process, fairness, and increased voter confidence that election procedures be well settled in advance of the election and provided to the public through the Internet and other easily accessible means. This allows voters, election administrators, observers, the media, and the general public to know what the rules are, and assists election administrators in running the election smoothly and fairly.

When rules change frequently or are not publicly disclosed, the outcome is voter suppression and lack of confidence. When people do not know what the rules of the game are, they are less likely to participate. Further, election officials do not have time to understand and correctly implement the rules in their election procedures, leading to errors. Administrators at times, whether through being overworked or an instinct to protect the process through secrecy, can obstruct observers, fail to disclose the procedures for voting, or not meet required deadlines for reporting information. When there is confusion or lack of transparency in the voting process, parties and candidates resort to the courts, which inevitably creates more chaos and distrust in the system.

Therefore, it is essential that the rules for an election be established and published before any ballots are sent out and that elections be open to meaningful observation as a baseline for increasing voter confidence in election processes and results. These baseline requirements of due process, transparency, and good election administration should be uncontroversial.

But beyond that, it is crucial that the rules themselves promote confidence instead of undermining it. While the ballot box must be accessible to all eligible voters, when election changes are implemented at the expense of important election integrity safeguards, voter confidence is greatly undermined. In the past few years, states have begun to take voter confidence more seriously by implementing laws that secure elections to a greater degree.

The clearest example of a popular reform that increases voter confidence is voter identification laws. Voter ID laws are a commonsense election integrity safeguard that are widely supported by voters both sides of the aisle. Recent studies place the support of voter ID laws at 75% among likely U.S. voters.³ Broken down, 89% of Republicans, 60% of Democrats, 77% of unaffiliated voters nationwide believe voters should be required to show photo identification such as a driver's license before being allowed to vote, including 69% of black and 82% of other minority voters.⁴

These polls come almost two decades after the bipartisan Commission on Federal Election Reform, commonly called the Carter-Baker Commission, in its report titled "Building Confidence in U.S. Elections" expressed how voter ID boosts confidence as an election safeguard:

"Americans are losing confidence in the fairness of elections...The electoral system cannot inspire public confidence if no safeguards exist to deter and detect fraud or to confirm the identity of voters. Photo IDs currently are needed to board a plane, enter Federal buildings, and cash a check. Voting is equally important." 5

Voter ID is widely supported by voters and ordinary citizens outside the Beltway who find this reform uncontroversial because they understand its importance as an election safeguard. LDF's research on voter ID laws underscores the important role they play in improving voter confidence and promoting integrity. The National Conference of State Legislatures states that 35 states have active laws requiring voters to present adequate identification at the polls, 18 of which ask for the voter to present photo ID. This is a growing trend, not a shrinking one, and for good reason – voters support these laws for how they increase voter confidence in the security of elections.

When voters choose to vote outside the polling place by absentee or mail ballot, they should receive the same protections as voters who choose to vote at a polling place. That is basic fairness. For this reason, states are increasing the security of their absentee ballot verification procedures. Florida just enacted SB 90, which requires voters to provide their driver's license number, state ID number, or the last four digits of their social security number to verify their absentee ballots and applications. § Georgia's recent election reform, SB 202, requires voters to submit a photo ID along with their absentee ballot or to verify their identity by providing their ID number or the last four digits of their Social Security number. §

Many argue these laws suppress voters, but if voters who choose to vote in person on Election Day are protected by an identification requirement in a majority of states, why should voters who vote by mail not receive the same protection for their votes?

Ballot verification laws are beginning to move away from verifying absentee ballots by signature because the methods for doing so often lead to the subjective judgment of election workers disenfranchising eligible voters. States are instead implementing photo ID and other identification requirements for mail voting because it serves as an objective method to verify ballots, protect voters from having their ballots compromised, and increase voter confidence without disenfranchising voters or reducing ballot access.

Safeguards like voter ID laws are invaluable to the people's trust in our democratic process.

It is safe to say that my home state of California has perhaps the loosest election laws in the nation. California conducts its elections overwhelmingly by mail, struggles to maintain current and accurate voting rolls, has an extended early voting period, permits unlimited third-party ballot collection, allows mail ballots to be returned to unmonitored drop boxes at any time through Election Day, permits ballots postmarked by Election Day to be counted so long as they are received within three days after the election, has automatic and same-day voter registration, and many other election procedures designed to make voting more accessible.

Most of California's election rules are embodied in H.R. 1, the For the People Act, which if passed would override the effective election laws of most every state. Yet, in spite of this openness designed to optimize opportunities to vote even at the expense of the integrity of elections, California's voter turnout in 2020 was average compared to other states across the country. There comes a point where expanding ballot access actually fails to increase voter turnout and ends up only changing when existing voters cast their ballots, with the unintended effect of undermining voter's confidence in the entire system. The people act, which is passed to the property of the people act, which is passed to the people act, and the people act and

For example, early voting is an extremely popular election reform intended to expand voter access and increase voter turnout. However, there have been multiple studies showing it can actually decrease voter turnout.

While acknowledging early voting has become the most popular election reform in recent years, the American Journal of Political Science published a study in 2013 showing that early voting is

actually associated with lower turnout when it is implemented by itself, largely due to how it reduces the civic significance of elections for individuals and alters the incentives for political campaigns to invest in mobilization.¹²

The study's analysis noted how this decrease in turnout "upends the conventional view that anything that makes voting easier will raise turnout." The researchers in the study in the end found that early voting appears to "lower the likelihood of turnout by three to four percentage points" compared with the probability in 15 states that do not allow early voting or had not implemented other voting reforms. 14

Conclusions from another study focusing on early voting in Ohio found:

"While early in-person voting and no-excuse absentee voting in Ohio reduced waiting times on Election Day, it has had no measurable impact on increasing voter turnout." 15

"In 2004, when [Ohio] only had one day of voting and [excuse absentee voting], [Ohio] had more votes than [it] did in 2012 and 2016 where [it] had expansive early voting. In fact, the only time [voter turnout] increased was in 2008 and it was less than one percent." 16

The Washington Post admitted in 2016 that "[t]he percentage of those who can vote and do, though, doesn't seem to be affected by early voting — at least nationally." 17

What is instead affected by early voting reforms is the cost to run a campaign, since more funds are needed to sustain get-out-the-vote efforts over a longer period of time, leading to even more money in politics. The down-the-ballot contests – water commissions, school boards, judges, ballot measures, etc. – cannot afford to mobilize voters over a four-week early voting period. Early voting seems to benefit high-profile races like president and governor where voters are exposed to information over a longer period of time, but is a detriment for local races that have a greater impact on the day-to-day lives of voters and yet may not be known to voters during the early voting time frame.

Not only do laws aimed at increasing opportunities to vote often fail to increase voter turnout, when they are enacted without proper safeguards, they risk undermining the entire electoral system they are trying to improve.

Consider reforms allowing for third-party ballot collection, also known as ballot harvesting or ballot trafficking. This is where individuals and political operatives collect and return any number of voters' absentee mail ballots, either on a volunteer or paid basis.¹⁸

This Committee's minority issued a disturbing report on the negative effects ballot harvesting had on California's and North Carolina's 2018 midterm elections. ¹⁹ The report labeled the practice as "potentially the greatest threat to ballot integrity in this country," ²⁰ and when considering the fact that the Supreme Court is, at any moment, set to issue a decision in *Brnovich v. Democratic National Committee* – a case dealing with the validity of Arizona's law that makes ballot harvesting a felony – it reveals just how important of an issue ballot harvesting currently is

Supporters of ballot harvesting often suggest it is needed to allow a family member to return other household members' ballots or a caregiver to return a housebound senior citizen's ballot. These are important considerations for states when crafting their ballot return rules, and they should be flexible enough to allow ballots to be returned by others in reasonable, limited circumstances consistent with everyday life. But there is a world of difference between that and

unlimited ballot harvesting, which opens the door to voter coercion, vote buying, and other abuses.

California enacted unlimited ballot harvesting in 2016.²¹ The law has since had a dramatic effect on how elections are run in California, demonstrating how such laws can undermine election integrity and voter confidence. Unlimited ballot harvesting can allow paid political operatives to recruit and pressure voters to vote by mail at the behest of campaigns, unions, and special interest groups.²² Harvesters can influence voters to cast their ballot a particular way and in doing so undermine the secrecy of the ballot box, a long-held essential principle of American elections intended to protect voters.²³

This Committee's report explained how these laws allow unscrupulous ballot harvesters to collect, intercept and destroy mail-in ballots of voters who traditionally vote against the harvester's preferred party. 24

Many argue that never happens, yet North Carolina's 9th Congressional District race in 2018 shows otherwise. After reports surfaced of a Republican political operative tampering with absentee ballots, the State Board of Elections took note of the numerous irregularities in ballot return figures and ultimately refused to certify the election.²⁵

As this Committee's minority reported, "The [NCSBE] found that [the operative] and his staff illegally collected absentee ballots for his candidate, discarded absentee ballots, were witnesses to hundreds of absentee ballots, accused of attempting to submit unsealed and unmarked ballots, and directed his associates to avoid collecting ballots in African-American neighborhoods."²⁶

The sad reality is that those at most risk from coercion or disenfranchisement by an unscrupulous ballot harvester, enabled by unlimited ballot harvesting, are the most vulnerable in our society.²⁷

But even if states put meaningful limitations on ballot harvesting to ensure integrity, allowing 24-hour, unmonitored drop boxes that voters can use to return their absentee ballots makes these limitations nothing more than words on paper. According to the National Conference of State Legislatures, only around a dozen states permit voters to return absentee ballots by designated drop boxes, each offering varying degrees of security.²⁸

Not only do unmonitored drop boxes create de facto unlimited ballot harvesting, they also present a genuine risk to the security of every voter's ballot deposited in a box. Drop boxes need extensive physical security protections to prevent ballots being destroyed or lost. There were numerous reports in 2020 of U.S.P.S. drop boxes being vandalized, and at least one unattended ballot drop box was intentionally set on fire, leaving voters to question whether their returned ballots had been destroyed. ²⁹ Errors by election administrators can also jeopardize the security of ballots returned via drop boxes, such as when they leave ballots behind or even leave the keys to the drop box in the lock. ³⁰

Both for the actual security and perceived security of an election, any methods of returning a ballot should be overseen by election officials and have substantial physical security protections. Without adequate protections, individuals intending to take advantage of the system will do just that. For example, the Nevada Secretary of State is currently investigating the Nevada Native Vote Project for entering voters into raffles to win gift cards and jewelry allegedly for returning their mail ballots in the 2020 election. A lack of proper election safeguards around ballot return methods can lead to problems like this.

It is no wonder voter confidence was so low after the 2020 election. When laws intended to expand voter access fail to implement sufficient integrity safeguards, the result is decreased voter

confidence. Attempts to overturn state laws, like H.R. 1's For the People Act, would implement these poorly safeguarded procedures across all 50 states and only exacerbate a real problem. And these changes unfortunately do not actually do what they are enacted to do – increase voter participation.

According to a report released by the *Wall Street Journal*, three of the top five states with the largest black-white voting gaps provide voters with same-day registration – Wisconsin, Iowa, and Colorado.³² While California has some of the most open ballot access laws in the country, it still had lower turnout among all minority groups and larger voting disparities with whites than Arizona, which has laws some claim suppress minority voters.³³

Automatic voter registration has the same result – undermining voter confidence without demonstrating increased voter turnout. While the number of registered voters may increase, there is little proof that voters will participate upon being automatically registered. Add on the risk of automatic voter registration increasing voter registration record errors, instead of improving voter roll accuracy as it is supposed to, and the security and efficiency of election administration is greatly undermined. In the first few months of California's automatic voter registration program, over 100,000 errors were created in the voter rolls, including errors entered in existing voters' records that the voters were required to correct and ineligible persons being registered to vote without their permission.³⁴

Even President Obama's bipartisan Presidential Commission on Election Administration asserted that accurate voter rolls are "essential to the management of elections" for how they benefit "the ability of people to vote, of election offices to detect problems, and of courts and others monitoring elections to detect election fraud or irregularities." 35

Furthermore, "[a] list with many incorrect records can slow down the processing of voters at polling places resulting in longer lines." Automatic voter registration ostensibly helps improve the accuracy of voter registration lists, but it does not always fulfill its promise. Another unintended consequence of automatic voter registration that can contribute to long lines at the polls is that it prevents election officials from using the voter rolls to effectively allocate voting equipment based on the number of active participating voters. There is simply no way to know how many voters will actually show up to vote when people who never have any intention of voting are added to the voter rolls.

When states like California have at times had more than 5 million inactive voters who have moved away or died on their voting rolls, it is no wonder there are significant election administration issues coupled with decreased voter confidence. The California and other states decided to mail a ballot to every voter in 2020, outdated voter rolls were used to mail thousands of ballots to people who were no longer eligible to vote. Social media posts circulated about people receiving live ballots for a long-dead grandmother or seven prior occupants of their house because the state chose to mail ballots before cleaning up the rolls. This is yet another way that voter confidence is undermined.

Contrary to the narrative of those advocating for radical election changes in efforts to expand voter access, the lack of voter confidence is not coming from voters not having enough options to vote. A report by the Bipartisan Policy Center/Morning Consult found that 80% of voters were satisfied with their voting options in 2020 with 55% of all voters being very satisfied.³⁸ Even with more voters voting by mail in 2020 than any election prior, 39% of voters still prefer to vote in-person on Election Day compared to 24% of voters who prefer to vote by mail or just 12% of voters who preferred voting by mail via a ballot drop box.³⁹

Evidence suggests that voters would participate more if they were more confident that their ballots would be properly counted and not diluted by votes cast by ineligible voters. The problem is not a lack of ballot access; it is a lack of voter confidence.

The Knight Foundation's breakthrough study released in February of 2020 makes this clear:

"Many non-voters suffer from a lack of faith in the election system...Thirty-eight percent of non-voters are not confident that elections represent the will of the people, and non-voters are more likely to say that this is because the system is rigged. Non-voters are less likely to believe votes are counted fully and accurately."40

Voter confidence is the real issue at hand, and the only way to remedy it is to implement and maintain effective ballot integrity safeguards that ensure fears over poorly administered elections go unrealized.

What is the solution? Let the states serve as laboratories of democracy as they are supposed to. California can have its rules, Wisconsin can have its rules, North Carolina can have its rules, and Illinois can have its rules, and they can each determine how to best run a free and fair election for their citizens. With respect, Congress should not decide to impose California's rules on the entire country.

Each state should be free to implement the appropriate election methods that serve the diverse needs of its electorate, coupling procedures that make voting more accessible with safeguards that protect the integrity of the process. No state needs to look the same – one state could restrict ballot harvesting while providing mobile voting units to rural voters, another could expand mail voting while providing strong chain of custody laws and monitored drop boxes. Having a one-size-fits-all approach to elections may have unforeseen consequences, inevitably stifling innovation and tying the hands of states seeking to best serve their electorate.

Giving the federal government more control over state elections would only result in the federal government eliminating the important election safeguards thoughtfully implemented by states across the country that in turn increase voter confidence in the integrity of election results. Instead of solving the crisis of voter confidence, shifting control from the states to the federal government would only exacerbate it.

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²⁴ Id. ²⁵ Id.

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Chairman Butterfield. And we thank you for your testimony as well.

It is now time for member questions. And as usual, we will start with the gentleman from California, Mr. Aguilar.

Five minutes.

Mr. AGUILAR. Thank you so much, Mr. Chairman.

Ms. Longoria, from the Harris County perspective, you talked about drive-thru voting in the 2020 election. And through this new and innovative method, obviously voters can drop their completed ballot at designated drop-off locations and remain in their car. This method of voting proved to be safer for voters during the pandemic.

It has been a while since my kids were in car seats, but I would imagine that parents with voting age—with children in their car, to avoid waiting in those long lines, as well proved helpful.

Can you speak to the benefits of drive-thru voting outside of a pandemic and share data or information about who used this type

of voting in the last election?

Ms. Longoria. Absolutely. So right off the bat, we know that over 50 percent of people who used drive-thru voting were Black, Latino, or Asian. And to be clear, we not only used it in the November 2020 Presidential election, but the July and December elections as well, and most recently in May. And people love it.

No matter what part of the city, no matter what their background, as you shared, being able to have your kid in the car while you vote means you don't have to call your kid out of their car seat and deal with the temper tantrum and risk that as you are trying

to vote.

But same with our seniors. We actually saw vans coming from senior centers where people appreciated being able to sit in their cars, right, or their vans with the community they know and having easy voting access, instead of having to get eight seniors in and out of a van. Sometimes that is cumbersome.

We saw people with disabilities come and use it as well when curbside voting, which, in Texas, is mandated at every voting location, became sometimes too onerous because you could only have one voting machine there instead of the multiple that we were able to offer at drive-thru voting.

So we know that beyond the pandemic, it is something that helps

voters vote and, honestly, gets them excited about voting again.

Mr. AGUILAR. Thanks so much. You mentioned temper tantrums, and I just remind you that you might hear from the ranking member, Mr. Davis, a little bit later that will remind you about that.

But wanted to ask this next question to Ms. Longoria and Ms. Marziani, and specific to Texas and Senate bill 7. We heard you speak about this, Ms. Longoria, restricting early voting hours, including Sunday mornings, which have been utilized for souls at the polls initiatives; prohibiting drive-thru voting; and reallocating polling places using racially discriminatory formulas, amongst other restrictions.

If drive-thru or curbside voting was restricted, what impact would this have on disadvantaged communities, including communities of color?

And a second question. As I am the only litigator on our side— I am the only person on our side not a litigator, so can you talk to me about the litigation and why litigation alone is going to be inadequate to challenge a law like SB7?

Ms. Longoria to start, and then Ms. Marziani.

Ms. Longoria. Absolutely. So we know that over 170,000 people use drive-thru voting. Another basically 15,000 or so use those latenight and expanded hours. And so you are looking at literally hundreds of thousands of people who wouldn't have voted in November and wouldn't have voted in our May or December or July elections either.

And so when we are looking at these impacts, if you cut these types of voting, you will affect the kinds of votings that we see at other—you know, compared to early voting in person. More communities of color, more people of color use methods that are easier, that are more accessible, and that, quite frankly, are just fun to use for voting, like drive-thru voting, 24-hour, those curbside methods, and our mail ballots.

And as an elections administrator, it is all good and well to say, well, you can take it to the courts, but I have to do elections in 6 months. I have to do elections. Today is early voting for me in another election. So I don't have 6 months to 3 years to wait for litigation to pan out. I need help today.

Mr. AGUILAR. Ms. Marziani.

Ms. Marziani. Thank you. Yeah, I agree with all that. I mean, on litigation, you know, to be sure, there will be litigation against the State of Texas if SB7 is passed. But litigation is resource intensive. It is long, it is onerous. And as the Honorable Isabel Longoria pointed out, elections will pass during that time and people will likely be disenfranchised. So that is not a solution.

I might also point out that curbside voting is a very particular type of voting. It is required under the Americans with Disabilities Act. Drive-thru voting is much broader. So it, for instance, encompasses someone like me with two kids under five in the scenario that we discussed. And so that is one of the reasons it is so very important to expand participation.

Mr. AGUILAR. Thanks so much, Ms. Marziani and Ms. Longoria.

Mr. Chairman, I will yield back.

Chairman Butterfield. Thank you, Mr. Aguilar.

At this time, the chair recognizes the Ranking Member of the Subcommittee, Mr. Steil, five minutes.

Mr. STEIL. Thank you very much, Mr. Chairman.

Ms. Longoria, I see your current role is with the election administration—you are the election administrator for Harris County. How long have you been in that role for?

Ms. Longoria. Six months as the elections administrator, and another year total working on elections in Harris County, and then 10 years working on elections—

Mr. Steil. No, no. I just wanted—

Ms. Longoria [continuing]. And democracy here in Harris County.

Mr. Steil. I only get five minutes. I got to keep it tight here. So you were not the election administrator for Harris County at the time of the November 2020 election. Is that correct?

Ms. Longoria. I was the number three in the office.

Mr. Steil. So you weren't the election administrator. You were obviously involved. I think that is helpful for us to know. So you have never been the election administrator for an election previously. Is that correct?

Ms. LONGORIA. If you are asking about my resume, I can provide that to you. But, yes, I do run elections here in Harris County and

have been deeply involved for the past 10 years.

Mr. STEIL. But have you been an election administrator for—have you previously ever been the administrator for an election in your career?

Ms. LONGORIA. Nope.

Mr. Steil. It is not a problem if not.

Ms. Longoria. Everyone's got to start somewhere, so I——

Mr. Steil. Oh, no.

Ms. Longoria [continuing]. Started 6 months ago as the elections administrator.

Mr. Steil. Not a problem at all. Just want to make sure we are clear that, previously, you haven't had the opportunity yet, you will in the future, to be administrator for election. I think that is important for the record as we understand, you know, analysis of how we are doing this.

Let me just dive in, though, for—in Harris County. Last year, Congress appropriated \$400 million in the CARES Act emergency funds to States to assist with administering elections during a pandemic. And, according to the EAC, the State of Texas received \$24.5 million in CARES Act funding.

Do you know if Harris County received any portion of these

funds, and, if yes, how much?

Ms. Longoria. Sure. We received definitely funds from Federal, State, and even our local partners to administer the elections, and have since hosted four elections, or sorry—I am sorry—two more elections with all of those——

Mr. STEIL. But out of the CARES Act funding, out of the 25—roughly \$25 million that Texas received, do you know what Harris County received?

Ms. Longoria. I can get you that number, sir.

Mr. Steil. That would be great.

Did Harris County receive funds for election administration from

nongovernmental sources in 2020?

Ms. Longoria. Yeah. We work with tons of national nonprofits and local nonprofits as well to host elections in a fair, accessible, and free manner here in Harris County.

Mr. STEIL. And, in particular, I believe Harris County received \$9.6 million from one grant related to ultimately the donation of Mr. Zuckerberg. Is that correct?

Ms. LONGORIA. You have asked me that already. Yes. We receive funds from multiple nonprofits to host elections—

Mr. Steil. But—

Ms. Longoria [continuing]. In Harris County for the Presidential and others as well.

Mr. STEIL. And \$9.6 million ultimately came from Mr. Zuckerberg and paid for—my understanding, it paid for grants, including 24-hour polling locations, drive-thru voting, et cetera.

Did—were some of these funds used to purchase ads on Facebook or any other social media platforms to increase voting turnout in Harris County?

Ms. Longoria. We use funds to educate voters about their meth-

Mr. Steil. But I just asked a—

Ms. Longoria [continuing]. And options for voting in Harris County.

Mr. Steil [continuing]. Yes or no. Were some of those funds used to purchase ads on Facebook?

Ms. Longoria. Understood, sir. I am just trying to provide context on what we do in Harris County and why we have these methods of voting.

Mr. STEIL. You can follow up with written remarks as you like, but were funds used for Facebook ads, yes or no?

Ms. Longoria. Yes, as in every election.

Mr. Steil. So some of the funds coming from Mr. Zuckerberg were ultimately used to purchase Facebook ads. I think it is relevant to know.

And was the grant solicited or unsolicited?

Ms. Longoria. What do you mean by that question?

Mr. Steil. Did you solicit a grant from—ultimately, from Mr. Zuckerberg's operation for the election?

Ms. Longoria. I mean, I want to be clear.

Mr. Steil. [Inaudible] Harris County [inaudible]

Ms. Longoria. Again, we—we as a county do look to supplement the funds that we don't receive from, you know, State and Federal resources-

Mr. Steil. So you solicit-

Ms. Longoria [continuing]. To host free and fair—I am just try-

ing to answer your question, Representative.

Mr. Steil. Understood. So the county or the election administrators have solicited funds from private parties in the past to support the election operations of Harris County?

Ms. Longoria. We don't solicit funds from private parties.

Mr. Steil. Oh, you don't. Okay. You don't solicit funds from private parties. Okav.

Let me just park this, because we have got limited time.

I think it is interesting, and maybe it is something that this Committee should look into, about how private party funds are used. We have seen this in Wisconsin. We saw it in Milwaukee, in Madison, in Racine, Kenosha, Green Bay, and they shared about \$6.3 million and some of that Federal funding as well. And I think it is an opportunity for our Committee to examine how those funds were used.

In my very short amount of time left, let me just shift gears. I would like to just ask a quick question of Ms. Titus, if I can.

You have been very involved in promoting elections. You have looked at how H.R. 1 in particular, I think, and how California has aspects of that. Some of the challenges that we see about unlimited ballot collections by third parties, can you just comment briefly you spoke a little bit in your opening statement—just adding a little color to some of the challenges that we have—that you see, in particular in California, what would happen if we rolled that out nationwide?

Ms. TITUS. Well, first, as a general matter, I think it is interesting that H.R. 1 proposes to nationalize certain standards. And in 2020, there were numerous counties in California that had to seek waivers from the State's laws to—because they simply couldn't comply with them, they didn't work for them geographically or demographically, and most of these were rural counties.

And so it is often that these laws are written for more urban counties and urban voters, and they leave out and really do not serve the voters of more rural counties. And so for that reason, I just don't think it is a good idea to have a system of laws where we have to constantly seek waivers and exceptions to those laws. And so that is as a general matter.

And then, more specifically—

Mr. STEIL. So-so, Ms. Titus, I would love to continue.

I know we are going to upset the chairman if I go way beyond my time. So I am going to hold you there and look for you to add some—maybe some color in some written statements at the end.

And, Mr. Chairman, in recognition of the time, I will yield back. Chairman Butterfield. I thank the gentleman.

At this time, the chair recognizes Ms. Leger Fernandez for five minutes.

Ms. LEGER FERNANDEZ. Thank you.

Ms. Longoria, your testimony noted that Harris County had historic turnout due to innovations that intentionally and successfully increased minority voting. You then set out eight ways in which you believe SB7, as proposed by the Texas Republicans, was intended to impact minority, low-income voting suppression laws.

Now, I would note that, as an election administrator and someone who helped administer elections in Harris County, you specifically called upon Congress to act.

So in thinking about how we can act, let me ask you this: Do you believe that H.R. 1 and a revised Voting Rights Act would protect minority voting access?

Ms. Longoria. I can't speak to all of the exact provisions in H.R. 1 or the revised Voting Rights Act specifically, but I will say that, yes, as I have stated, we need Federal intervention. I don't have time to wait for litigation to protect me in Texas.

We already see that the Texas leadership is not going to act in a way, as they have stated in their own personal and public statements, right, in a way that is going to help protect these innovations. And, sadly, what we consider an innovation in Texas is standard practice in some parts of the country.

And so I want to frame that as well that, though many parts of the country are good actors and doing what it takes to support voters, in Texas, we don't have that environment right now. And so that is why we need your help at the congressional and Federal level immediately.

Ms. LEGER FERNANDEZ. Thank you, Ms. Longoria.

Ms. Lang, your written testimony described how the 65-plus age requirements in Texas absentee ballot law especially hurt the Latino community. Can you describe why this is the case and if there are other examples of election laws with age requirements that disproportionately impact Latino or the minority voters?

Ms. Lang. Yes. Thank you very much for that question.

So CLC was involved in litigation about this particular issue representing LULAC and the interest of the Latino community.

What was particularly pernicious was that the Latino community was facing these restrictions on vote by mail at a time when the Latino community was suffering from the effects of COVID-19, the worst in Texas.

But at all times, these restrictions disproportionately affect Latinos because of the demographics in Texas. It just is the case that the Latino community, and to some lesser extent the Black community, in Texas are younger, and that is well-known. And so the White community is disproportionately older. And so older, White Texans have had a free range to vote by mail while Latino voters largely could not, even though they often lived in multigenerational homes, and so they were putting at risk their older members.

A number of other States have these types of age restrictions that, on their face, perhaps look reasonable, but underlying the demographics of age in our country lead to disproportionate effects on minority communities. It is the case in many States that Latino and Black communities are disproportionately younger than White communities in States that have these type of roles.

Ms. Leger Fernandez. Thank you.

I want to switch to issues relating to Native American Tribes. As my colleagues on the Committee know, I represented several Native American Tribes before joining Congress.

You shared that, in 2018, a county recorder closed an early voting site for the Pascua Yaqui Tribe in Arizona, and this meant that 4,000 voters on the reservation had to travel at least 2 hours round trip by bus to vote early.

Can you describe how the Shelby decision impacted the ability of Native Americans to vote?

Ms. Lang. Absolutely. So this was just one example of many that we heard about earlier today on the first panel of closures that have affected minority communities, and this one was particularly problematic for the Pascua Yaqui Tribe in 2020 when they were trying to reduce in-person voting on election day and an early voting location on the reservation would have made an enormous difference. Native Americans face a lot of issues in Arizona in particular, but across the country, of longer trips, a lot of polling places off-reservation that are not only long distances away but places where Native Americans often feel unwelcome. They are too often not granted polling place locations on the reservation where they can kind of have Native Americans be the workers there and have a more welcoming community.

Ms. LEGER FERNANDEZ. Thank you.

Ms. Daniels, you noted that protecting all, especially minority voting rights is not a partisan issue. I agree with you. Restricting our citizens' right to vote is not partisan; it is un-American.

Mr. Chairman, I ask unanimous consent that the November 2019 report "We Vote, We Count: The Need for Congressional Action to

Secure the Right to Vote for All Citizens" by the Racial Equity Anchors Collaborative be added to the record.

Chairman Butterfield. Without objection, the report will be received. Thank you.

Ms. LEGER FERNANDEZ. Thank you very much. I yield.

Chairman Butterfield. All right. At this time, the chair will recognize the Ranking Member of the full Committee, my good friend, Rodney Davis. Thank you.

Mr. DAVIS. Okay. Thank you, my friend, Mr. Chairman.

Ms. LONGORIA, just real quick, yes or no, I just want to make sure I heard something correctly because I don't have a lot of time either, and I have got to get to some other witnesses.

Harris County did not solicit any private funds from Mark

Zuckerberg, correct? They were unsolicited?

Ms. Longoria. I think that is incredibly misleading, sir. Mark Zuckerberg was a part of a foundation and a nonprofit organization that created funds for election administrators across the county, and so we were able to receive some funds from that nonprofit.

Mr. DAVIS. Mr. Chair, can I get some more time if I am not able

to get a simple yes or no answer.

Did Harris County solicit this foundation money that Mr. Zuckerberg is part of, or did you not? Was it just given to you, or did you solicit it? That is a simple answer.

Ms. Longoria. I am unclear on what your definition of "solicit"

is. We do have to, like all nonprofits, apply for funds.

Mr. DAVIS. So you did solicit that money. Okay. That is what I just wanted to clarify because on your application, you solicited it. Right?

Ms. Longoria. Respectfully, it seems we disagree on the word of

"solicit."

Mr. DAVIS. Okay. Well, it is something that I think the Committee needs to look at whether or not funds are available to other rural communities and rural counties that may have some interest in having outside funding help with their election administration, Mr. Chair. I don't think it should be relegated to just more populated counties in this country.

Now, I do want to say to my colleague—or to Ms. Titus, thank you for being here. Thanks for mentioning the ballot harvesting report, the California ballot harvesting report that the House Administration minority issued last Congress.

Do you agree with the report's finding?

Ms. TITUS. Yes. The interesting experience that we had in California in 2020—and I am sure the members of the Committee are aware of, I guess, you could call it a controversy with the California Republican Party attempting to have its own drop-box program, is that when the California attorney general got involved, and as lawyers for the California Republican Party, we were on the phone with nine lawyers from the California department of justice, and all of the questions seemed to suggest that we should be following a number of protocols and safeguards that simply are not in the law. And while we didn't necessarily disagree with their implications, you know, they simply were not part of the law that was written, and yet they were intuitive. These were all safeguards

that the lawyers on the phone seemed to think were the law, should be the law, and yet were not the law.

And so California has this program that allows anybody to harvest ballots. A union member could walk up to a colleague's door, demand their ballot, encourage them to vote in a particular way. Political party operatives could do the same. There is really no requirement that somebody actually sign the outside of that person's ballot, that they tell the voter who they are, who they represent, whether they are being paid. There is no receipt. There is no chain of custody. There are literally zero safeguards in the law, except that they not be tampered with and that they be submitted to the Elections Office within 3 days.

Beyond that, the law has no requirements. And yet while Democrats and union members were freely engaging in this activity without being harassed by State law enforcement, when the California Republican Party sought to implement it and, in fact, went above and beyond the law and the legal requirements, they were harassed by the Attorney General's Office, as well as district attorneys and elections officials on Twitter. One of our low-level field staff had his life turned upside-down. And yet other candidates for Congress who happened to have a D after their name were not subject to the same harassment.

Mr. DAVIS. Interesting. Interesting to hear.

Speaking of California statewide elected officials, according to information provided to us by the Secretary of State's office, former Secretary of State, now U.S. Senator Alex Padilla used \$34 million of CARES Act funds that the State received to procure a contract with SKDKnickerbocker for the Secretary of States' Vote Safe California initiative. According to the contract, the scope of work included Get Out the Vote, which we all know what GOTV services are, and I know you know what they are, so SKDKnickerbocker's management of the leadership strategies for the Biden campaign, would you consider this a conflict of interest?

Ms. TITUS. Yes, absolutely. I mean, not only did you have a consulting firm that was working for the Democratic Presidential candidate, this firm was also working for a number of California Democratic congressional candidates, and yet they were hired by the State of California to perform this Get Out the Vote program. We don't know which voters they were actually trying to get out, although we have our suspicions. And even worse, they had to cover their tails after the fact because it turns out they spent the money improperly, and they needed to go back to the legislature committed had months after thev these funds SKDKnickerbocker, months after the program had ended and get the legislature to procure the fact that they really didn't have the appropriation to spend the money in the way that they had spent it. It was intended and originally appropriated to be spent by counties, and the State essentially stole it from the counties and had to fix it after the fact.

Mr. DAVIS. Well, thank you for your time. Thank you for your response. I am out of time.

I vield back, Mr. Chair.

Chairman BUTTERFIELD. Thank you to the Ranking Member. At this time, the chair recognizes Ms. Scanlon for five minutes. Ms. Scanlon. Thank you, Mr. Chairman.

I wanted to focus some of my questions on disability voting rights. I introduced the Disability Voting Rights bill, which was included in H.R. 1, and the Accessible Voting Act, both of which would help folks with disabilities, which include older Americans, veterans, et cetera, help them access and exercise their right to vote.

Ms. Longoria, currently what are the options now for people with

a disability to vote or register to vote in your jurisdiction?

Ms. Longoria. In Harris County to register to vote, it all has to happen on pencil with pen. Even if you print your form online, you still have to do it with a wet signature. Folks with disabilities or maybe have physical impairments can get assistance or witnesses

to help them out, but there is no online voter registration.

When it comes to voting, there is a couple of options: Curbside voting, so that is for every in-person voting location, we have to have a buzzer outside where someone can drive up, hit that buzzer if they don't feel they can make it inside the location and request that a machine be brought out to them. We are happy to comply, but as you can imagine, taking a machine out from inside the location to bring it outside slows down voting both for the folks inside and outside, depending on how long the ballot is.

Interestingly enough, Harris County I think is one of the few, if not the only county, still under preclearance with the DOJ specifically for ADA accessibility. So we already have to go through a very limited preclearance, so used to the paperwork, to make sure that all of our voting locations have accessible ramps and accessible means of voting for those who can make it inside a voting location

either with an aide or not.

And then drive-through voting, as was shared earlier, is available to everyone, including folks with disabilities or older Americans, which folks found extremely convenient to just drive up, not have to wait in lines, to have machines brought out to you and to use to vote, whether you are there with your senior who had, you know, a handicap placard, for example, or something else, and mail ballot voting, of course.

Ms. Scanlon. Right. Yes, I mean, it is really interesting how when we pay attention to things like things that help folks with disabilities exercise their right to vote, it helps other people. Pennsylvania just put the voter registration application online, just making it that much easier to get access to. You know what? It was helpful to my college-age kids to be able to print out that application and get it done. So we do see that the benefits extend beyond just perhaps that targeted population. And the same, obviously, with the mail-in voting.

How did the most recent Texas legislative session threaten to im-

pact voters with disabilities?

Ms. Longoria. In Senate bill 7, which, again, was stopped by a quorum but has been threatened to bring back in a special session, we saw requirements in there for voter ID expansion to applications, which, again, when you don't have online mail ballot applications, people would have to print out, scan, et cetera, all of their documents, include it in a piece of mail and send it in. There were restrictions on who qualified as disabled to use mail ballot voting,

including people, in certain instances, taking them off, and then, on top of that, putting even more restrictions on assistance of caregivers who would drive people to vote or to do mail ballot voting by having to fill out paperwork, step out of the vehicle. So, if you imagine a senior living facility or an assisted living facility that brought a van of five people to come vote, then all of them would have to get out of the car while the person inside the car is voting and switch out who is allowed to be in the car if utilizing curbside voting.

Ms. Scanlon. Wow. It is almost like people were trying to make

it harder for certain groups of people to vote.

You know what? I don't have any further questions at this time. So I would yield back.

Thank you.

Chairman Butterfield. Thank you. The gentlelady yields back. At this time, the chair recognizes himself for five short minutes. Let me begin with you, Professor Herron.

Can you tell us a little bit more, please, about what your research says about the utilization of early voting by minority voters, racial minority voters? Just tell us what your research says about utilization of early voting.

Mr. HERRON. Sure. Thanks for that question.

So some States keep track of the races of their voters, races and ethnicities. And my research uses that administrative data to track when people vote, and what we can see is that—and this is drawn by other entrants in the literature as well—that minority voters are disproportionately heavy users of early voting. Even within early voting periods, they are disproportionately often to vote on Sundays. We have already heard Souls of the Polls discussed, and there is some evidence on weekends in general. And so I would say that is the clear story here: Minorities vote very heavily on early voting.

Chairman Butterfield. Thank you for that.

Let me now go to Ms. Lang, if I may.

Ms. Lang, in your voting rights litigation practice, to what extent have you seen jurisdictions restrict alternative options for voting, such as early voting and absentee voting, in a discriminatory way?

Ms. LANG. Unfortunately, we are seeing it more and more. This is an area where, again, as Professor Herron explained, because voters of color are effectively using some of these mechanisms for voting, early voting and vote by mail, there have been increasing attempts to restrict access.

So, for example, during 2020, I mentioned that after Harris County had already set up a number of early voting locations—drop-box locations and early voting locations, the Governor suddenly announced that you could only have one drop box per county and severely restricted access to drop-box services and did so right in the middle of the election. And we saw something similar in Ohio. Of course, this had the biggest effect on cities that serve, you know, millions of people and can't do so with one drop-box effectively.

Chairman BUTTERFIELD. Now, we all know that the Supreme Court has suspended the use of section 5, but section 2 continues to be the law of the land, and it is being used very forcefully by

some groups across the country. We are waiting to see what the Supreme Court is going to do in the Arizona case in the next few days, but we hope it will continue to be a very valuable resource.

How do you utilize the existing protections, that is, section 2 in

the Voting Rights Act, to litigate against discriminatory practices?

Ms. LANG. Section 2 is absolutely critical to my voting rights practice, but there are obvious limitations to section 2. For example, one of the most important section 2 cases I have ever litigated is the Texas voter ID case where the courts held that that law was discriminatory under section 2 of the Voting Rights Act and, therefore, unlawful. The district court held that, a Fifth Circuit panel held that, an en banc panel of the Fifth Circuit held that, and the Supreme Court denied Texas' attempt to bring it up to the Supreme Court. And, yet, that discriminatory law was in effect from when Shelby County was decided until the 2016 election. For years, elections went by with a law that every Federal court that saw it said was unlawful under section 2 until 2016 when we were finally able to get an injunction.

So section 2 takes some time and, unfortunately, you know, can be eroded with Federal court interpretation. We are looking forward to hearing the Supreme Court's decision in Brnovich this month and hope that the Supreme Court takes the opportunity to strengthen section 2, since it is the only meaningful tool we have

under Federal law to attack discriminatory voting laws.

Chairman Butterfield. I certainly agree with you that we need to strengthen section 2 and not weaken it. As a voting rights attorney many, many years ago, I tried cases using the intents standard. I tried cases using the results standard, and I can tell you that it is very difficult at times to prove what is in the heart and minds of those who prepare election systems, but we certainly know the electoral result. So hopefully the Supreme Court will leave it in-

It appears that I am running out of time. And before I do so, I want to ask unanimous consent, if I can, to add an October 12 New York Times article, which is titled "California Republican Party Admits It Placed Misleading Ballot Boxes around State," which is related to documents pertaining to election fraud committed by the California Republican Party related to ballot collection.

I have that in front of me. It is a New York Times article, and

I ask that it be included in the record.

Thank you. Without objection, it will be received.

[The information follows:]

California Republican Party Admits It Placed Misleading Ballot Boxes Around State - The New York Times

The New York Times https://www.nytimes.com/2020/10/12/us/politics/california-gop-drop-boxes.html

California Republican Party Admits It Placed Misleading Ballot Boxes Around State

Government officials say the receptacles are illegal and could lead to election fraud, but the party says it will continue the practice.

By Glenn Thrush and Jennifer Medina

Published Oct. 12, 2020 Updated Dec. 22, 2020

The California Republican Party has admitted responsibility for placing more than 50 deceptively labeled "official" drop boxes for mail-in ballots in Los Angeles, Fresno and Orange Counties — an action that state officials said was illegal and could lead to election fraud.

The dark gray metal boxes have been popping up over the past two weeks near churches, gun shops and Republican Party offices, mostly in conservative areas of a deep-blue state, affixed with a white paper label identifying them as either an "Official Ballot Drop off Box" or a "Ballot Drop Box."

To the average voter, they are virtually indistinguishable from drop-off sites sanctioned by the state, which are governed by strict regulations intended to prevent the partisan manipulation of ballots.

The actions of the largely marginalized state party come at a moment when Republicans and Democrats are engaged in a bitter national struggle over voting rights, with President Trump's allies accusing Democrats in Minnesota and elsewhere of undermining the integrity of the electoral process by expanding absentee voting and other measures to increase ballot access.

On Monday, California's secretary of state, Alex Padilla, and Attorney General Xavier Becerra sent a cease-anddesist order to the state- and county-level Republican parties, ordering them to remove the boxes. They also urged voters who might have unknowingly dropped off their ballots in the receptacles to sign up with the state's voter tracking website to ensure their vote is counted.

"Misleading voters is wrong regardless of who is doing it," Mr. Padilla said in a conference call with reporters, adding that the boxes "are not permitted by state law."

Mr. Becerra called the boxes "fake," adding that it was "illegal to tamper with a citizen's vote." He warned that anyone "engaging in this activity" could be subject to criminal prosecution or civil action.

Hector Barajas, a spokesman for the California Republican Party, said the party would continue to distribute the boxes, without adding any label identifying them explicitly as Republican ballot drops.

Mr. Barajas - who disclosed that Republicans were responsible for the boxes only after being bombarded by questions by reporters on Monday — said the party's actions were legal because state law did not restrict "ballot harvesting," a practice that allows a third party to collect voters' completed ballots.

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9/20/2021

California Republican Party Admits It Placed Misleading Ballot Boxes Around State - The New York Times through the endless news cycle, telling you what you really need to know. <u>Get</u> it sent to your inbox.

Mr. Trump and his supporters have decried the practice as corrupt when Democrats have been accused of collecting bundles of ballots, which is legal in 26 states but subject to verification requirements.

"There is nothing in any of the laws or regulations cited in that advisory that indicate private organization drop boxes are not permitted," said Mr. Barajas, who blamed Democrats for blocking anti-harvesting legislation.

"The way Democrats wrote the law, if we wanted to use a Santa bag, we could," he said. "A locked heavy box seems a lot safer." Mr. Baraias said.

Mr. Padilla dismissed that claim, telling reporters that the boxes were not covered by legal protections, because they were intended to "mislead voters and erode the public trust."

State officials have not alleged that operatives from either party have engaged in the selective harvesting of ballots placed in the illegal boxes. The ballots will be counted if they are received, even if they do not have a third-party signature typically required for collected mail-in votes, Mr. Padilla said.

Trump's Bid to Subvert the Election

A monthslong campaign. During his last days in office, President Donald J. Trump and his allies undertook an increasingly urgent effort to undermine the election results. That wide-ranging campaign included perpetuating false and thoroughly debunked claims of election fraud as well as pressing government officials for help.

Republican officials purchased about 100 of the boxes in recent weeks in an attempt to boost turnout, especially in competitive down-ballot races, as party leaders fret about Mr. Trump's drag on other Republicans, an operative with direct knowledge of the effort said.

They had installed about half of them by the time Mr. Padilla and other state officials took notice over the weekend.

State officials quickly ordered an investigation into the boxes, and Mr. Padilla sent a memo to county elections officials urging them to investigate the unauthorized boxes in order to "guarantee the security and chain of custody of vote-by-mail" ballots placed in them.

In his memo, he reminded local officials that creating an illegal polling site was a felony punishable by up to four years in prison.

Mr. Padilla's office received a report on Saturday that a metal box with a misleading sign suggesting that it was an official site to drop off mail-in ballots had been placed in front of the Freedom's Way Baptist Church in Castaic, northwest of Los Angeles.

And last week, a supporter of a Republican congressional candidate in Orange County, Michelle Steel, posted a picture of himself on Twitter dropping off a ballot at one of the party's boxes.

120/2021

California Republican Party Admits It Placed Misleading Ballot Boxes Around State - The New York Times

In the post, Jordan Tygh, a regional field director for the California Republican Party, flashes a thumbs-up over the caption, "Doing my part and voting early," according to The Orange County Register, which first reported on the use of the boxes.

The post has since been deleted.

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https://www.nytimes.com/2020/10/12/us/politics/california-gop-drop-boxes.html

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Chairman Butterfield. My time has expired. At this time I will yield back the balance of my time.

All right. Mr. Ranking Member, it looks like we are winding

Is there anything administratively that we need to take care of

before we close?

Mr. Steil. I do not believe so on my end.

Chairman Butterfield. All right. Let me close by first thanking all of today's witnesses for their very valuable testimony. Both panels have been just absolutely valuable—invaluable.

Thank you to the members for your questions as well. The members of the Subcommittee may have additional questions for these witnesses. And, if so, we will ask you to respond, that is the witnesses, to respond to those questions in writing.

The hearing record will be open. It will be held open for those

And so it is good to see all of you today, and thank you for your participation. The Subcommittee on Elections of the Committee on House Administration, without objection, will now stand adjourned.

We will see you next week.

This Subcommittee is adjourned.

[Whereupon, at 1:24 p.m., the Subcommittee was adjourned.]

QUESTIONS FOR THE RECORD

HEARING SUBCOMMITTEE ON ELECTIONS OF THE

COMMITTEE ON HOUSE ADMINISTRATION
"VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND
RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR
ACCESS TO THE BALLOT"

JUNE 11, 2021
MAJORITY QUESTIONS FOR THE RECORD
FOR
DR. STEPHEN PETTIGREW
PROFESSOR

UNIVERSITY OF PENNSYLVANIA

1. In your testimony, you testified about the racial gap in wait times at polling places. What do you think are the implications of your research findings, and that of other political scientists that study long wait times at polling places, on election administration policy and on how voting rights should be protected?

As I noted in my written statement and oral testimony, there are several important implications of long lines at polling places on policymaking decisions and voting rights. It is very clear from the academic literature that non-white voters tend to face longer wait times to cast their ballot than white voters. In November 2020, roughly 16 million people waited longer to vote than the 30-minute benchmark set by the President's Commission on Election Administration.

Addressing the problem of long lines will require several legislative and bureaucratic changes.

Perhaps the most powerful of these will be expanding opportunities for voters to cast their ballots. Ensuring that all voters have the ability to easily cast a ballot by mail, without requiring an excuse, can have a massive impact on the length of lines because it diminishes the total number of people showing up to vote in person. Similarly, providing more opportunities for people to vote in-person during the pre-election early voting period can help minimize lines by spreading out voters' arrivals over time. Having early voting sites open 7 days per week for several weeks prior to Election Day can help accomplish this goal. Also, rules mandating that polling places (both during early voting and on Election Day) be open for several hours before most people begin work at 8 or 9:00AM, as well as several hours after the end of the work day at 5 or 6:00PM, diminish the chances that large groups of voters simultaneously arrive to vote right after work, thereby creating a long line.

24-hour voting locations, as were used in Harris County, Texas in 2020, can also have a big impact on minimizing the length of lines. This maybe particularly true for low-income shift workers, whose work schedules and childcare responsibilities may nighttime hours more attractive since they can reasonably expect that lines would be much shorter at those times.

Implementing this change alone could have a big impact on the gap in wait times between white and non-white voters.

Lastly, local election officials have put a lot of work into solving the problem of long lines in recent years. There is still work to be done, and one of the most useful things for them to accomplish that work is increased funding from federal sources. An interesting feature about line length is that, in some ways, it is an indication of how smooth the election administration process is in a given county or state. If, for example, a county uses federal money to purchase machines that quickly open and process mail ballots, that will have a big impact on the smoothness of the mail voting process. That, in turn, will help to shorten lines because more voters will be likely to utilize mail ballots instead of voting in-person, and the county will need fewer staffers and volunteers to deal with mail ballots and instead can assign them to working inside of in-person polling places.

2. In your testimony, you shared that 16 million people experienced long wait times to vote in the 2020 election. You also explained how research shows that long wait times diminish turnout and discourage future voting. Can you please elaborate further on the research on the impact of long wait times and racial disparities in wait times on voter confidence, voter participation and election outcomes?

Nobody wants to wait in a long line to cast their ballot. When voters are compelled to spend a large chunk of time waiting to vote, it creates an immediate burden on those voters. This burden is especially difficult for low-income voters who may not have childcare, or for those who work a shift-based schedule and cannot take time in the middle of their workday to vote while lines are short. Those workers have to wait until the end of the workday, when lines tend to be longer.

But one of the most troubling implications of the racial disparities in wait times is the long-term consequences that extend beyond the immediate burden of losing a couple hours of your day. As I noted in my written statement and oral testimony, I have found in my research that voters who experience a long line in one election are less likely to turn out to vote in subsequent elections. One explanation for this is that long lines tend to be a chronic problem that plague certain precincts, counties, or states over time. A voter who experiences a long line today is very likely to experience one in two or four years. This means that voters in areas with long lines must *plan* to wait in a long line the next time they vote. It is a much easier decision to turn out to vote when you expect to be in-and-out of the polling place in 10 minutes, than if you know that the whole process may take an hour or two.

When we consider that long lines are more likely to impact non-white voters, it means that they are being disproportionately turned off from the voting process because of the long line that experienced. Long lines tarnish the democratic process by demanding that voters in neighborhoods with long lines have more of a cost placed upon them than voters in neighborhoods with short lines. Because these costs are more heavily placed upon non-white

voters, it means that long lines are actually shaping the electorate. Failure to address the problem of long lines is tantamount to putting a thumb on the electoral scale and saying that it is more important for certain voters' voices to be heard than others.

Researchers have also found that experiencing a long line has important impacts on how voters think about the democratic process more generally. Voters who reported waiting in a long line are less likely believe that their ballot was counted correctly and have less confidence in the integrity of the electoral system as a whole. At the core of ensuring that Americans have confidence in the integrity of the electoral system is the idea that our elections run smoothly, and that the final outcome correctly reflects voters' preferences. Long lines are perhaps the most visible sign that the process is not smooth, and they erode voters' belief in the integrity of the system.

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MINORITY QUESTIONS FOR THE RECORD FOR DR. STEPHEN PETTIGREW PROFESSOR UNIVERSITY OF PENNSYLVANIA

1. Did your organization provide grants to any state or local elections office to assist with the administration of the 2020 elections? If yes, please provide the amount of and recipient(s) of the grant.

Not to my knowledge.

2. Did your organization provide assistance in any form other than grant funding to any state or local elections office to assist with the administration of the 2020 elections before, during, or after Nov. 3? If yes, please explain.

Not to my knowledge.

The Leadership Conference on Civil and Human Rights

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July 13, 2021

COMMITTEE ON HOUSE ADMINISTRATION SUBCOMMITTEE ON ELECTIONS

"VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR ACCESS TO THE BALLOT"

JUNE 11, 2021

MAJORITY QUESTIONS FOR THE RECORD FOR MS. JESSELYN MCCURDY INTERIM EXECUTIVE VICE PRESIDENT FOR GOVERNMENT AFFAIRS THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS

 Can you please elaborate on the patterns of where problematic polling closures and consolidations are taking place and their impact since Shelby County v. Holder?

In the wake of *Shelby County v. Holder*, formerly covered states have engaged in problematic polling location closures that disproportionately impact minority communities and low-income voters. Since the Supreme Court eviscerated the preclearance requirement of the Voting Rights Act in *Shelby County*, most formerly covered jurisdictions have shuttered significant numbers of polling places. Poll closures are a common and pernicious way to disenfranchise voters of color.

The Leadership Conference Education Fund analyzed poll closures in jurisdictions formerly covered by Section 5 of the Voting Rights Act in a report entitled *Democracy Diverted: Polling Place Closures and the Right to Vote.* ¹ Between 2012 and 2018, local officials from 757 of the 800 previously covered counties had closed 1,688 polling places. Additionally, the analysis found that compared to 2014, there were 1,173 fewer polling places available for the 2018 midterm elections, despite a significant increase in voter turnout. These decisions to reduce voting locations often have a cascading effect leading to long lines at other polling places, transportation hurdles, denial of language assistance and other in-person help, and confusion about where eligible voters may cast their ballot. For voters of color, older voters, rural voters, and voters with disabilities, these burdens make it harder — and sometimes impossible — to vote. Without reliable data to determine how many voters were discouraged or prevented from voting by polling location closures, it is difficult to measure the full impact of these closures on voters.

Texas, a state where 39 percent of the population is Latino and 12 percent is African American, closed 750 polling places since *Shelby County*, by far the most of any state in our study. Five of the

¹ http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf

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six largest closers of polling places were in Texas. With 74 closures, Dallas County, which is 41 percent Latino and 22 percent African American, was the second largest closer of polling places, followed by Travis County, which is 34 percent Latino (67 closures). Harris County, which is 42 percent Latino and 19 percent African American (52 closures), and Brazoria County, which is 13 percent African American and 30 percent Latino (37 closures), tied with Nueces County, which is 63 percent Latino (37 closures). Many, but not all, of these polling places were closed as part of a statewide effort to centralize voting into "countywide polling places." This effort slashed the number of voting locations but allowed voters to cast ballots at any Election Day polling place.

Without Section 5 of the VRA, we cannot assess the impact these mass closures have on communities of color, though these drastic reductions occurred against a backdrop of multiple court battles over state laws that discriminate against Black and Latino voters. Although we cannot assess the impact of these mass closures under Texas' conversion to vote centers, counties like Somervell (by 80 percent), Loving (by 75 percent), Stonewall (by 75 percent), and Fisher (by 60 percent) — all of which have large Latino populations — cut voting locations even though they did not transition to vote centers. In fact, voters in counties that still hold precinct-style elections had 250 fewer voting locations in 2018 than they did in 2012. Ultimately, these closures can force voters to choose between going to a new polling place significantly further away and working enough hours that day to put food on the table.

Arizona, a state where 30 percent of the population is Latino, four percent is Native American, and four percent is African American, had the most widespread reduction (320 closures) in polling places. Almost every county (13 of 15 counties) closed polling places since preclearance was removed — some on a staggering scale. Maricopa County, which is 31 percent Latino, closed 171 voting locations — the most of any county studied and more than the two next largest closers combined. Many Arizona counties shuttered significant numbers of polling places, including Mohave, which is 16 percent Latino (34 closures); Cochise, which is 35 percent Latino (32 closures); and Pima, which is 37 percent Latino (31 closures). In 2016, Maricopa County's poll closures forced voters to stand in line for five hours to cast a ballot. While Arizona's increased use of mail-in ballots and the shift to consolidated vote centers make it difficult to determine the full impact of polling place closures on various communities, it is incumbent upon the county to ensure that closures do not have a racially discriminatory impact.

In Georgia, voters across the state had 214 fewer places to cast ballots; in some rural counties, voters were left with only one polling place for hundreds of square miles. One of the most troubling facets is the scale of Georgia's polling reduction: eighteen counties closed more than half of their polling places and several closed almost 90 percent. In advance of the 2018 election and under the direction of Secretary of State and Gubernatorial candidate Brian Kemp, Georgia attempted to close polling places in 10 counties with large Black populations. For example, election officials recommended consolidation and closure of seven of nine polling places in Randolph County, which is 60 percent African American. Though these plans were abandoned after local and national outcry, voters faced five-hour lines, delayed polling place openings, and broken voting machines. After Kemp's narrow victory, advocates filed a lawsuit alleging that the 2018 election deprived Georgians of the right to

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vote, particularly Georgians of color. With strategically planned poll closures, election officials can influence who can and cannot vote, thus influencing the outcome of elections.

These examples and the full analysis in the *Democracy Diverted* report make it clear that formerly covered states are taking advantage of the *Shelby County* decision to eliminate polling locations in a manner that disproportionately impacts communities of color and low-income voters. When the local polling location closes, voters face the dual challenges of long lines and longer travel times, forcing a choice between voting and working. Without the preclearance requirement, formerly covered states are no longer required to submit these changes to the Department of Justice (DOJ) for approval and consideration of racially disparate impact. Absent this oversight, these poll closures will burden voters who must travel further and wait in longer lines to simply exercise their right to vote.

2. What do you think is the most effective means for preventing the discriminatory impact of polling place closures and consolidations?

To help prevent discriminatory impacts and work towards equitable administration of elections, any polling place closure or consolidation must be organized in cooperation with diverse communities, analyzed in advance for any possible discriminatory impact, and conducted with clear notice and transparent means. To ensure this, Congress must restore the preclearance provision of the Voting Rights Act by passing the John Lewis Voting Rights Advancement Act (VRAA).

The Leadership Conference Education Fund's *Democracy Diverted* report found that between the 2014 and 2018 elections there were 1,688 polling place closures in previously covered jurisdictions. Enacting the VRAA would re-establish a similar preclearance requirement in order to prevent proposed changes in election administration from having a discriminatory impact on voters of color, voters with disabilities, voters with language access needs, and other protected groups.

Requiring this preclearance from the Department of Justice in covered jurisdictions will help to ensure that the discriminatory poll closure practices seen in the most recent elections are prevented from happening again. Most decisions to close or consolidate polling places were made quietly and at the last minute, which prevented any pre-election litigation — itself an expensive and time-consuming response — to challenge such practices. These types of closures had lasting discriminatory effects on communities of color, including long lines at other polling locations, transportation issues and increased commutes, denial of language accessibility and disability help, and voter confusion about eligible polling locations. Jurisdictions should be required to notify voters of all polling place changes, including how and why they were made. Elected officials should be active, responsive, and communicative to voters in their respective communities when closures and consolidations occur. Any objections from local, regional, and national civil rights organizations regarding poll closures impacting voters of color should be incorporated to any final decision on a closure.

Legitimate reasons to reduce the number of polling locations could include population reduction or decreased demand in Election Day voting because of an increased demand in early and mail-in

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voting. However, those reasons cannot justify any poll closure without fully understanding and preventing discriminatory the impacts on diverse communities. Jurisdictions have used pretextual excuses like budget constraints, compliance with the Americans with Disabilities Act, or parking limitations to justify poll closures that restrict the freedom to vote. Preclearance from the Department of Justice, along with meaningful collaboration with impacted voters are necessary safeguards to establish equitable election administration.

3. What did the North Carolina law that was struck down in 2016 by the Fourth Circuit Court of Appeals, in which it was held that the law targeted African-Americans "with almost surgical precision", tell us about the need to reinstate Section 5 of the Voting Rights Act?

The North Carolina case added to the growing judicial suspicion of the wave of legislation passed in recent years restricting the freedom to vote. The case showed us that supporters of strict voter-ID laws over-exaggerate the type of fraud that those repressive laws are meant to combat. One study found that only 31 individual cases of voter impersonation out of more than 1 billion votes cast since 2000.² Section 5 of the Voting Rights Act is important to eliminate bad law based on largely mythical voter fraud.

The case showed how data on racial difference in voting behaviors was used against African Americans. For example, since the data showed that African Americans disproportionately lacked the most common kind of photo ID, legislators designed the law such that the only acceptable forms of voter identification were the ones disproportionately used by white people, and excluded many of the alternative photo IDs. Since the data showed that African Americans were more likely to make use of early voting, lawmakers eliminated the first seven days of North Carolina's 17-day voting period. If Section 5 was implemented, these legislative decisions would have been flagged before they went into place and before requiring the judiciary to step in. While the courts were reviewing the law, voters stayed home from the polls, were turned away because they lacked the proper ID, went to the wrong precinct, and missed the narrow early voting window.

Section 5 protects voters by requiring covered states, like North Carolina, to obtain preclearance of any changes to voting laws and rules from the Department of Justice to ensure that the changes are not discriminatory. Congress would be reasonably and appropriately exercising its enforcement authority under the Fourteenth and Fifteenth Amendments if it restored Section 5 of the Voting Rights Act. Without Section 5 as a federal check, aggressive anti-voter legislation will continue to appear in other states and localities.

What happened in North Carolina is not an isolated event. It is a direct consequence of the decision in *Shelby County* and the removal of the preclearance requirement. Without the preclearance requirement, voter purges and other actions with discriminatory impact need to be challenged after they occur, and even if they are ruled unconstitutional or illegal, they will have some impact on

² https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/

July 13, 2021 Page 5 of 6



voters. That can lead, for example, to uncertainty about voter registration status that is only cleared up after standing for hours in line to vote. If a person stands in line for hours, only to discover that they have been purged from the voter rolls, it can have a chilling effect on their participation in future elections. Preclearance is essential to guarantee that no one who wants to exercise their right to vote is denied.

July 13, 2021 Page 6 of 6



MINORITY QUESTIONS FOR THE RECORD FOR MS. JESSELYN MCCURDY INTERIM EXECUTIVE VICE PRESIDENT FOR GOVERNMENT AFFAIRS LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS

1. Did your organization provide grants to any state or local elections office to assist with the administration of the 2020 elections? If yes, please provide the amount of and recipient(s) of the grant.

No.

2. Did your organization provide assistance in any form other than grant funding to any state or local elections office to assist with the administration of the 2020 elections before, during, or after Nov. 3? If yes, please explain.

No.

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HEARING SUBCOMMITTEE ON ELECTIONS OF THE

COMMITTEE ON HOUSE ADMINISTRATION

"Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair

ACCESS TO THE BALLOT"
JUNE 11, 2021

MAJORITY QUESTIONS FOR THE RECORD

FOR

Mr. Kevin Morris Quantitative Researcher, Democracy Brennan Center for Justice

1. In your testimony, you testified that both the quality and quantity of electoral resources play a role in racial disparities in wait times at polling places. You also testified that resource allocation patterns are currently on track to exacerbate racial wait gaps. Can you please elaborate further on these assertions?

As part of our 2020 Brennan Center report, we interviewed dozens of election administrators around the country. We found that election administrators generally did not provide language assistance unless they were expressly required to do so under Section 203 of the Voting Rights Act. This was true even for counties that only barely missed being covered under Section 203. Because the coverage requirements are only updated every 5 years, this can leave linguistic minorities at a potential disadvantage for a number of elections. The effects reach more widely than just the voters who do not receive adequate linguistic assistance—as these voters take longer to fill out their ballots, they can cause slowdowns for all voters in their polling place resulting in longer lines.

Moreover, we found that the counties that are becoming less non-Hispanic white the most quickly are also the counties with the fewest electoral resources. Put differently, nonwhite population growth is concentrated in precisely the areas where resources are scarcer. Given that counties with fewer resources saw longer lines, current trends indicate we can expect to see worsening racial wait time gaps in the years to come as voters of color increasingly reside in under-resourced parts of the country.

- $2. \ \ You \ testified \ about \ the \ impact \ of \ wrongful \ purges \ of \ voters \ from \ registration \ rolls.$
 - a. Can you expand further on the impact of wrongful purges on polling place quality and on voters who were wrongfully purged as well as those who were not?

¹ Hannah Klain et al., Waiting to Vote: Racial Disparities in Election Day Experiences, Brennan Center for Justice (2020), https://www.brennancenter.org/sites/default/files/2020-06/6 02 WaitingtoVote FINAL.pdf.

When a voter shows up to cast a ballot on election day but is not on the rolls, she is often required to cast a provisional ballot. Research indicates that provisional ballots take twice as long to complete as regular ballots and are also much more likely to be rejected. When many voters in a given polling place cast provisional ballots, this can cause slowdowns for all voters—even those who are registered and eligible to cast a regular ballot. Brennan Center research indicates that higher purge rates in jurisdictions formerly covered under Section 5 of the Voting Rights Act were associated with higher provisional ballot rates. Inaccurate purges directly undermine the right to vote of the individuals who are removed, and the spillover effects extend to other voters in their polling places; as wrongfully purged voters fill out their provisional ballots, other voters are forced to wait in longer lines.

b. Can you please share about the discriminatory impact of wrongful purges?

Court's decision in *Shelby County v. Holder* led to increased purge rates in jurisdictions that were formerly covered under the preclearance condition in Section 5 of the Voting Rights Act. In fact, the most recent data from 2019 indicate that their purge rates were 40% above where they would have been if the preclearance condition were still in place. These jurisdictions had been covered under the preclearance condition because of demonstrated racial disparities in their election administration. Indeed, in North Carolina racial minorities were purged at higher rates than others between 2016 and 2018. Other recent research indicates that voters of color were more likely to be inaccurately flagged for removal in Wisconsin. Moreover, because racial minorities are more likely to share common last names, they are at higher risk than white voters of falling victim to "weak match" purges in which voters are removed from the rolls if their information matches information in other administrative databases. In short, the surge in voter purges following the *Shelby County* decision, coupled with underlying differences in different racial groups' names, leaves voters of color at particular risk of being wrongly removed from the rolls.

² Douglas M. Spencer and Zachary S. Markovits, "Long Lines at Polling Stations? Observations from an Election Day Field Study," *Election Law Journal: Rules, Politics, and Policy* 9, no. 1 (March 2010): 3–17; Lawrence Norden, *How to Fix Long Lines*, Brennan Center for Justice, (2013),

https://www.brennancenter.org/sites/default/files/2019-08/Report How to Fix Long Lines.pdf.

³ Jonathan Brater et al., Purges: A Growing Threat to the Right to Vote, Brennan Center for Justice (2018), https://www.brennancenter.org/sites/default/files/2019-08/Report Purges Growing Threat.pdf; Kevin Morris, Voter Purge Rates Remain High, Analysis Finds, Brennan Center for Justice (Aug. 21, 2019), https://www.brennancenter.org/our-work/analysis-opinion/voter-purge-rates-remain-high-analysis-finds.

⁴ Morris, Voter Purge Rates.

⁵ Kevin Morris and Myrna Pérez, Florida, Georgia, North Carolina Still Purging Voters at High Rates, Brennan Center for Justice (October 1, 2018), https://www.brennancenter.org/our-work/analysis-opinion/florida-georgia-north-carolina-still-purging-voters-high-rates.

⁶ Gregory A., Huber et al., "The Racial Burden of Voter List Maintenance Errors: Evidence from Wisconsin's Supplemental Movers Poll Books," *Science Advances* 7, no. 8 (February 17, 2021): 7-8.
⁷ Brater, Purges.

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MINORITY QUESTIONS FOR THE RECORD FOR MR. KEVIN MORRIS QUANTITATIVE RESEARCHER, DEMOCRACY BRENNAN CENTER FOR JUSTICE

Did your organization provide grants to any state or local elections office to assist
with the administration of the 2020 elections? If yes, please provide the amount of
and recipient(s) of the grant.

No. We did not provide any grants nor do we engage in this type of grantmaking work.

2. Did your organization provide assistance in any form other than grant funding to any state or local elections office to assist with the administration of the 2020 elections before, during, or after Nov. 3? If yes, please explain.

Yes, the Brennan Center engaged in advocacy and assistance to multiple state and local election offices across the country during the 2020 election, to both Republican and Democratic offices and without regard for political party identification. For example, this included trainings to ensure that states can secure their elections and supporting election officials in handling the unique challenges posed by the pandemic. The Brennan Center is proud to be an ally to hardworking election administrators across the country and looks forward to continuing to work with the Chair and Ranking Member of the House Administration, Election's Subcommittee to ensure our elections are safe and secure.

Written Responses Submitted by Mimi M.D. Marziani, Esq., President of the Texas Civil Rights Project to the



U.S. House of Representatives, Committee on House Administration, Subcommittee on Elections *on*

The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot

July 13, 2021

RESPONSES TO MAJORITY QUESTIONS FOR THE RECORD FOR MS. MIMI MARZIANI, PRESIDENT TEXAS CIVIL RIGHTS PROJECT

I respectfully submit the following responses to the questions posed:

In your testimony, you stated that Texas leads the nation in polling place closures. a. How have such closures disparately impacted communities of color in Texas?

As described in greater length in my original written testimony, numerous recent studies, including one released by TCRP last year, have confirmed that Texas counties routinely violate Texas law by providing too few polling places, with disparate impacts felt in communities of color. For example, in 2016, Galveston closed 16% of its polling locations in accordance with a plan that was initially rejected by the Department of Justice because it discriminated against Black and brown voters. Between 2014 and 2018, Somervell, Loving, Stonewall, and Fisher counties all closed between 60% and 80% of their polling places; each of these counties has a large Latinx population.

Finally, TCRP recently found that many counties—regardless of size or polling place model—were out of compliance with election laws.³ In 2018, Texas was unlawfully short of as many as 270 polling places in a total of thirty-three counties that contained 4 million registered voters collectively.⁴ Particularly egregious offenders included Caldwell and Cooke counties, which at the time of our report, were required by law to provide 33% and 60% more polling places, respectively, and Denton County, which needed to add 60 polling sites.⁵ Though they quickly pledged to address violations, McClennan and Tyler counties were found to lack sufficient voting locations in communities with large populations of people of color (Waco and Tyler, respectively).⁶

Time and time again, we have seen the majority of poll closures in Texas happen in our most diverse communities. Whether or not these closures intentionally target voters of color, it is indisputable that they disparately impact Black and brown Texans.

 $^{^1}$ Letter to Secretary of State Ruth Hughs regarding Texas counties providing fewer polling places than required by law, (May 13, 2020), https://texascivilrightsproject.org/wp-content/uploads/2020/05/2020-05-13-SOS-Letter-Polling-Places.pdf.

² Scott Simpson, THE GREAT POLL CLOSURE, LEADERSHIP CONF. EDUC. FUND 11 (2016), available at http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf

³ Paul Flahive, Texas Counties Disenfranchised Voters' by Closing Too Many Polling Places, Say Advocates, TEX. PUB. RADIO (May 13, 2020, 10:26 AM), https://www.tpr.org/government-public-policy/2020-05-13/texas-counties-disenfranchised-voters-by-closing-too-many-polling-places-say-advocates.

 $^{^{\}rm 5}$ Letter to Texas Secretary of State Ruth Hughs, at 9 (May 13, 2020), attached to written testimony as Appendix C.

b. You also stated that such closures have occurred under both Republicans and Democrats. How should Congress act to ensure that voters have adequate access to polling places and do not experience long wait times?

Unfortunately, Texas has proven repeatedly that we should not be trusted to police ourselves when it comes to ensuring voters have adequate access to polling places. Indeed, even after TCRP informed counties and the Office of the Secretary of State of racial disparities in poll closures that we identified in 2020, our calls for compliance with current election laws were often ignored. As of today's date, TCRP is not aware of any meaningful oversight provided by the State as counties set polling places last year for the general election, not even to ensure that counties complied with the bare minimum required by current law, and let alone to ensure that polling place decisions did not harm communities of color.

With these realities in mind, Congress must prioritize passing legislation that allows for meaningful federal oversight of election administration. Restoring preclearance by passing the John Lewis Voting Rights Advancement Act would be a great start by empowering the federal government to prevent states from making polling place changes that disparately impact voters of color. Additionally, establishing baseline standards for voting access by passing the For the People Act would make it much more difficult for states to enact voter suppression bills like the ones that have been recently introduced in Texas. Standardizing voting periods, modernizing voter registration, expanding vote by mail options, and directing states to allocate election resources to ensure that no voter has to wait longer than 30 minutes to cast a ballot are all commonsense ways to safeguard our democracy.

2. You testified about Texas's voter suppression omnibus bill S.B. 7 and how it would disparately impact voters of color by limiting early voting hours which would eliminate 24 hour voting, limiting "Souls to the Polls", and eliminating drive-thru voting. You also testified that a previous version of the bill would have redistributed polling places in a discriminatory way. Can you elaborate on any other provisions of S.B. 7 that would suppress voting?

TCRP's website includes extensive analysis of the myriad ways that bills introduced during Texas' 2021 legislative session, including S.B. 7, would disparately impact people of color.⁷

Specifically, in addition to the provisions you cited, the conference committee version of S.B. 78 would cause disparate impacts by:

Placing new restrictions on voting by mail (Sections 5.03, 5.07, 5.10): Texans relied on voting by mail more than ever in 2020 in order to vote safely during the pandemic. S.B. 7 would make it even harder for Texans to do so by requiring voter ID for mail ballot applications and mail ballot envelopes. The extensive record in the 2014 Texas photo ID litigation confirmed that, "African-Americans and Hispanics are more likely than Anglos to be living in poverty because they continue to bear the socioeconomic effects caused by

 ⁷ See https://txcivilrights.org/2021-special-session/ for more information.
 ⁸ Tex. S. 7, 87th Leg., R.S. (2021) Conference Committee Report,

https://lrl.texas.gov/scanned/87ccrs/sb0007.pdf#navpanes=0.

decades of racial discrimination," and therefore lack ID at higher rates than white voters. Accordingly, in Texas, voting changes that disparately impact poor people—including S.B. 7's voter ID requirement for mail ballots—necessarily also disparately impact people of color.

- Making voter registration more difficult (Section 2.01): Latinx and Asian Texans in
 particular are less likely to be registered to vote than their Anglo counterparts. To reduce this
 disparity, organizations and campaigns send out millions of partially pre-filled applications
 every election cycle, often targeting communities of color, which regularly leads to hundreds
 of thousands of new registrations. S.B. 7 would completely eliminate this practice.
- Giving partisan poll watchers new powers to disrupt voting (Section 4.06): Watchers are agents of political campaigns whose role should be limited to monitoring voting, but who have a well-documented history of intimidating voters in Texas, particularly from communities of color. ¹⁰ Yet S.B. 7 would embolden these partisans by giving them new rights over voting operations and by punishing poll workers when they try to exercise their traditional authority to prevent problematic watchers from interfering with voting.
- 3. To combat suppressive omnibus bills like S.B. 7, you recommended a restoration of preclearance under the Voting Rights Act. Is preclearance a more effective method for combatting omnibus bills like S.B. 7 versus legislation that sets federal election standards? If so, why?

The answer to voter suppression efforts is not a choice between restoring preclearance and implementing federal election standards; we have to do both to effectively protect voting rights.

As I described in congressional testimony in 2019, attached as Appendix B to my testimony before this body last month, preclearance is a critical means for maintaining the *status quo*, and preventing new changes to election law that harm voters of color. By placing the burden on the state to establish that any new changes do not undercut voting rights, preclearance also effectively forces government actors to undertake meaningful review of the effect of any proposed changes before they go into effect—creating an important public record.

But that's not enough in Texas, which by many metrics is the most difficult place to vote in the country. Establishing robust federal standards to ensure equal access to the ballot across the country is necessary to make sure that voters in places like Texas are not left behind in our democracy.

⁹ Veasey v. Perry, 71 F. Supp. 3d 627, 664 (S.D. Tex. 2014).

¹⁰ Emily Eby & Joaquin Gonzalez, OPENING THE FLOODGATES FOR RACIAL INTIMIDATION, DISENFRANCHISEMENT, AND VIOLENCE BY EXPANDING POLL WATCHER AUTHORITY (TCRP 2021), available at https://drive.google.com/file/d/1cm0Jip6cZLTiW4VsRph5qzGXj30-7RTg/view.

RESPONSES TO MINORITY QUESTIONS FOR THE RECORD FOR MS. MIMI MARZIANI, PRESIDENT TEXAS CIVIL RIGHTS PROJECT

I respectfully submit the following responses to the questions posed:

Did your organization provide grants to any state or local elections office to assist
with the administration of the 2020 elections? If yes, please provide the amount of
and recipient(s) of the grant.

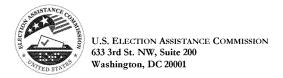
My organization, the Texas Civil Rights Project (TCRP), did not provide grants to any state or local elections office to assist with the administration of the 2020 elections.

2. Did your organization provide assistance in any form other than grant funding to any state or local elections office to assist with the administration of the 2020 elections before, during, or after Nov. 3? If yes, please explain.

The only assistance provided by TCRP was public and/or equally available to all governmental actors. As described in my testimony, TCRP regularly publishes reports, analysis and commentary, with recommendations for state and local election officials. In addition, in 2020, TCRP spearheaded a *Democracy From The Ground Up*¹¹ campaign with specific recommendations on best practices for election administrators during the COVID crisis, which we shared with county officials throughout Texas and about which we regularly answered questions or provided additional information when requested.

While we do not believe it constitutes assistance on behalf of TCRP, in the spirit of full disclosure we note that Rebecca Stevens, who previously served as TCRP's Voting Rights Legal Director, took an unpaid leave from TCRP from June 2020 to December 2020 to work in the Harris County Clerk's office. During that time, she received no compensation of any kind from our organization and was completely firewalled from TCRP, leaving her without access to her TCRP computer, email account, organization documents, and all other organizational assets.

¹¹ See our campaign website for more information, https://democracyfromthegroundup.org/.



July 13, 2021

The Honorable Zoe Lofgren Chairperson Committee on House Administration U.S. House of Representatives 1309 Longworth House Office Building Washington, DC 20515

Dear Chairperson Lofgren,

Thank you for the opportunity to appear before the Committee on House Administration, Subcommittee on Elections for the hearing on June 11, 2021, entitled, "Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot."

I respectfully submit for the record the attached responses to the Committee's follow-up questions. The U.S. Election Assistance Commission's advisory boards are a critical part of our agency, and I am happy to share more information on our new Local Leadership Council.

Unless otherwise noted, I am solely responding to the questions as Chairman of the U.S. Election Assistance Commission. The responses do not necessarily reflect the views of my fellow Commissioners.

Thank you for your continued interest and support of the U.S. Election Assistance Commission and our mission.

Sincerely,

Donald Palmer Chairman

U.S. Election Assistance Commission

HEARING SUBCOMMITTEE ON ELECTIONS OF THE

COMMITTEE ON HOUSE ADMINISTRATION "VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR ACCESS TO THE BALLOT"

JUNE 11, 2021
MINORITY QUESTIONS FOR THE RECORD
FOR
DONALD PALMER
CHAIR
U.S. ELECTION ASSISTANCE COMMISSION

In your written testimony you stated that the EAC is "currently launching a new advisory board comprised of two local election officials from all 50 states to provide advice and recommendations to the EAC in carrying out our mission under HAVA." The EAC already has three FACA boards that were created by HAVA which includes a 110-member bipartisan Standards Board that does exactly what this new FACA board is proposing to do. To get a better understanding of the new FACA Board, please provide answers to the following questions:

Question (a): Why does the EAC need another FACA Board?

Local election officials make up the U.S. Election Assistance Commission's (EAC) largest group of stakeholders outside of voters. They are the frontline of election administration, directly interacting with voters and executing the various steps of the election process. Feedback from local election officials is critical to ensure the EAC's clearinghouse, other work products, and resources meet the needs of election officials and add value to their efforts.

The EAC's new Federal Advisory Committee Act (FACA) board, the Local Leadership Council, will provide the EAC an opportunity to focus on topics almost exclusively within the responsibilities of local election officials. The board will address issues such as ballot administration (including design, logistics, processing, canvassing, reconciliation, and chain of custody), processing voter registration applications, election security, conducting post-election audits, communicating with voters, ensuring accessibility for voters with disabilities, managing lines at polling places, receiving direct feedback on local voting system anomalies and information on voting systems, local funding needs, and disaster preparedness.

The EAC's current FACA boards provide different perspectives based on their membership structures. The Technical Guidelines Development Committee, utilizing technical expertise from its members and chair from the National Institute of Standards and Technology (NIST), focuses on the Voluntary Voting System Guidelines, the voting system testing and certification program, and other election equipment usability, accessibility, and security concerns. The Board of Advisors and Standards Board also concentrate on the Voluntary Voting System Guidelines, as well as the EAC's program goals and high-level election administration matters. HAVA requires that there be two Standards Board members from each state: one state election official and one

local election official. This results in the Standards Board focusing more on state election administration and issues at the state-wide level. Board of Advisors members come from a variety of backgrounds including state and local election officials, advocates, and subject matter experts who provide broad expertise and input.

The new FACA board will assist the EAC in understanding and addressing the vastly different and nuanced election administration practices and regulations that vary from state to state and sometimes between local jurisdictions within the same state. The membership base will allow the agency to hear directly from the end users of EAC guidance and best practices on the election administration challenges they are facing and the need for additional resources to best assist them in serving the American public.

Question (b): How will the new FACA Board interact with the three existing FACA boards?

The EAC's three existing FACA boards do not directly interact with each other and have separate meetings and agendas. While there are common items of discussion across the boards such as the Voluntary Voting System Guidelines, testing of voting machines, election security, and the program goals of the EAC, each board meeting agenda is created in coordination with the respective advisory boards' officers and the EAC's designated federal officer for that board. Likewise, the Local Leadership Council will not interact directly with the three existing FACA boards. It will have its own separate designated federal officer, meetings, and agendas.

The EAC values the feedback from all its FACA boards and considers their input for a wide range of mission critical agency priorities and programs.

Question (c): Will this new FACA Board have a bi-partisan structure?

Local election officials are usually selected in partisan or nonpartisan elections or are appointed. Given this, they are most often members of the Republican and Democratic parties or nonpartisan/independent. When evaluating and approving the appointments to the Local Leadership Council, a concerted effort will be made to ensure a balance of membership from these partisan and nonpartisan backgrounds.

Question (d): How are the members selected for the new FACA Board?

The Local Leadership Council membership will consist of two members from each state that are current or former officers (such as current and past president) in each state's local election official professional association where one exists. Two nominations will be solicited from each state's local election official organization. These nominations will be reviewed by the EAC to ensure balance of membership on the FACA board, and appointments will be made from the submitted nominees when possible. The EAC retains authority to make the final appointment decisions

Question (e): How much of EAC's budget is earmarked to support the new FACA Board?

For FY22, the cost of maintaining the Local Leadership Council and holding meetings is expected to be approximately \$300,000. We look forward to keeping Congress updated on this important endeavor and all efforts by the EAC to support local election officials.

HEARING SUBCOMMITTEE ON ELECTIONS OF THE

COMMITTEE ON HOUSE ADMINISTRATION
"VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND
RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR
ACCESS TO THE BALLOT"

JUNE 11, 2021
MAJORITY QUESTIONS FOR THE RECORD
FOR
DR. MICHAEL C. HERRON

PROFESSOR
DARTMOUTH UNIVERSITY

1. In your testimony, you stated that early voting is heavily used by minority voters. You also stated that the literature on polling places indicates that polling place location changes negatively impact voters and can have a downward effect on turnout, and that this effect "is not neutral with respect to race." What do you think are the implications of your research findings and the literature on polling places on election administration policy and how voting rights should be protected?

My written and spoken testimony described results in the academic literature on election administration which highlight difference in the rates at which groups in society avail themselves of voting methods. When a jurisdiction makes an administrative change to the extent that it offers any particular method or form of voting---e.g., early voting on weekends, voting by mail, voting via drop box---it would be wrong to assume *a priori* that the consequences of the change are neutral respect to race. Rather, it follows from the academic literature that all changes to offered voting methods should be scrutinized for having disparate impacts across voter groups.

For example, since Black voters are traditionally disproportionately heavy uses of Sunday early voting, a jurisdiction that eliminated or curtailed this form of voting would disproportionately burden its Black voters. This is just one example of the ways in which changes in voting method availability do not treat all race groups equally, i.e., are not neutral with respect to race.

If one's goal is to protect the voting rights of all voting-eligible members of society, an additional implication of the literature on election administration is that variety in offered methods of voting is key. The more varied and

flexible a jurisdiction's voting methods, the less the jurisdiction need be concerned that its election administration apparatus disproportionately burdens any particular group of voters. Early, in-person voting can be made flexible if offered on multiple days pre-election, and voting by mail can similarly be made flexible if all voters are allowed to cast mail ballots without encountering procedures that are so challenging that they make mail voting excessively complicated.

One could offer a potential caveat to this conclusion if some of the methods of voting currently in use in the United States (in particular, early voting and voting by mail) were particularly prone to voter fraud. However, there is no evidence in the academic literature on election administration that voter fraud is anything but rare, and there is similarly no evidence that voter fraud is regularly and disproportionately perpetrated with any particular voting method. Many scholars using many different approaches and research designs have reached this conclusion.

With this in mind, jurisdictions need not worry that offering flexibility and variety in methods of voting is risky. To the contrary, findings in the scholarly literature on election administration imply that jurisdictions with flexible and varied methods of voting are least likely to place disproportionate burdens on any subset of voters.

MINORITY QUESTIONS FOR THE RECORD FOR

Page 2 of 3

DR. MICHAEL C. HERRON PROFESSOR DARTMOUTH UNIVERSITY

- 1. Did your organization provide grants to any state or local elections office to assist with the administration of the 2020 elections? If yes, please provide the amount of and recipient(s) of the grant.
- 2. Did your organization provide assistance in any form other than grant funding to any state or local elections office to assist with the administration of the 2020 elections before, during, or after Nov. 3? If yes, please explain.
- 1. No.
- 2. No.

HEARING SUBCOMMITTEE ON ELECTIONS OF THE

COMMITTEE ON HOUSE ADMINISTRATION
"VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND
RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR
ACCESS TO THE BALLOT"

JUNE 11, 2021
MAJORITY QUESTIONS FOR THE RECORD
FOR
MS. GILDA DANIELS
DIRECTOR OF LITIGATION

1. In your testimony, you stated that litigation is not enough to address voter suppressive bills. Can you expand further on why?

ADVANCEMENT PROJECT

Litigation is only one tool for addressing voter suppression. The recent United States Supreme Court case, *Brnovich v. Democratic National Convention*, reiterates the need to use other tools to dismantle voter suppression. In *Brnovich*, the Court ruled in favor of state sponsored suppression and further weakened the Voting Rights Act. Consequently, the courts no longer serve as a tool to eradicate the massive disenfranchising methods that states have adopted. Federal legislation is necessary to thwart the assault on the Voting Rights Act. In the wake of *Shelby County v. Holder* and *Brnovich*, it is imperative that legislation overcomes the many obstacles that voters face that impede access to the ballot box.

MINORITY QUESTIONS FOR THE RECORD FOR MS. GILDA DANIELS DIRECTOR OF LITIGATION ADVANCEMENT PROJECT

- 1. Did your organization provide grants to any state or local elections office to assist with the administration of the 2020 elections? If yes, please provide the amount of and recipient(s) of the grant. No, not that I am aware.
- 2. Did your organization provide assistance in any form other than grant funding to any state or local elections office to assist with the administration of the 2020 elections before, during, or after Nov. 3? If yes, please explain. No, not that I am aware.

HEARING SUBCOMMITTEE ON ELECTIONS OF THE

COMMITTEE ON HOUSE ADMINISTRATION
"VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND
RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR
ACCESS TO THE BALLOT"

JUNE 11, 2021
MAJORITY QUESTIONS FOR THE RECORD
FOR
MS. DANIELLE LANG
DIRECTOR, VOTING RIGHTS

CAMPAIGN LEGAL CENTER

1. In your testimony, you highlighted the discriminatory impact that unequal and discretionary application of voter ID policies by poll workers has on voters. You noted that if a state has complex voter ID rules, poll workers may unequally apply such rules to different segments of the voting population and can impact voter confidence and participation. Can you please elaborate further on how unequal application of voter ID laws can affect the voter confidence and participation of voters, especially minority voters?

Voter ID laws, even facially neutral ones, often result in the disproportionate disenfranchisement of vulnerable voter populations. This is true due to the disparate possession, and access to, the necessary forms of ID among many minority voters. But that is not all. Beyond the disparate impact of voter ID laws on their face, the broad discretion they provide to poll workers often results in discrimination, whether purposeful or not. Thus, the discriminatory bias of voter ID laws is compounded in practice.

First, certain groups of voters especially bear the burden of voter ID laws that do not properly provide for those voters' lived circumstances. For example, voter ID requirements create numerous challenges for Native American voters who live on reservations and do not have traditional residential street addresses. Preliminarily, in identifying forms of acceptable identification under voter ID laws, states may fail to consider the specific types of ID often most accessible to Native Americans, specifically tribal IDs. See Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters, The NATIVE AMERICAN RIGHTS FUND, 75-76 (2020), available at https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf. Even when tribal IDs are nominally accepted forms of identification, they may still not be accepted in practice because they do not include an address, use a P.O. Box, use a descriptive address, or include one different from the address that a county or state has assigned the voter in their statewide voting file system. All these circumstances lead to eligible voters being denied a regular ballot. See Patty Ferguson-Bohnee, How the Native American Vote Continues to be Suppressed, ABA HUMAN RIGHTS MAGAZINE, Vol. 45, No. 1: Voting Rights (Feb. 9, 2020), available at

https://www.americanbar.org/ groups/crsj/publications/human_rights_magazine_home/voting-rights/how-the-native-american-vote-continues-to-be-suppressed/.

One example of this disparate impact is the North Dakota voter ID law enacted in 2017, which required voters to have a valid ID with their name, birth date, and current residential address. In Spirit Lake Tribe v. Jaeger, No. 18-cv-00222, Campaign Legal Center represented members of the Spirit Lake Tribe, the Standing Rock Sioux Tribe, the Turtle Mountain Band of Chippewa Indians, and the Northern Cheyenne Tribe, some of whom had tribal IDs without a residential address, and others whose absentee ballot applications were rejected because the address on their tribal IDs and even state-issued IDs was deemed "invalid" because their county used a different addressing scheme.

Apart from non-traditional residences, Native Americans often face other impediments to acquiring the requisite forms of voter ID. Language barriers, lack of government issued birth certificates for home births on reservations, discrepancies between native language and English versions of names on government documentation, lack of electricity and access to the internet, and distance to government agency offices often prevent Native Americans from obtaining acceptable forms of identification. One Navajo grandmother was turned away from the polls for not having ID and had her delayed Navajo birth certificate improperly rejected by a motor vehicle office. She had to work with a team from the Indian Legal Clinic to make multiple attempts to obtain an appropriate form of ID. The burdens she endured to finally obtain the required ID made clear that the voter ID "system failed to consider her reality as a Navajo woman and failed to value her as a voter." See Patty Ferguson-Bohnee, How the Native American Vote Continues to be Suppressed, ABA HUMAN RIGHTS MAGAZINE, Vol. 45, No. 1: Voting Rights (Feb. 9, 2020), available at https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/votingrights/how-the-native-american/-vote-continues-to-be-suppressed/. Similar examples discriminatory impact apply for other groups of vulnerable voters including Black and Latino voters, immigrant voters, voters with unstable housing, and other historically disenfranchised communities.

Beyond creating barriers for specific groups, voter ID laws empower poll workers with significant discretion in determining who does and does not get to vote, inviting error and discrimination. See, e.g., Lonna Rae Atkeson, et al., Who Asks for Voter Identification? Explaining Poll-Worker Discretion. 76 T. POLITICS 4. 944 (2014),available https://www.researchgate.net/publication/271633294 Who Asks For Voter Identification Exp laining Poll-Worker Discretion; Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters, The Native American Rights Fund, 75 (2020), available at https://vote.narf.org/wp-content/uploads/2020/06/obstacles at every turn.pdf. Voter ID laws install untrained poll workers as arbiters of whether the person in front of them matches the voter's ID and can result in eligible voters being denied a ballot, even in cases where the voter is known to the poll worker. For example, after Texas enacted its voter ID law in 2011, poll workers denied a ballot to a black, 82-year-old wheelchair-bound army veteran who was a known voter because his driver's license was expired and the photo on his Veterans Administration ID was faded. See Veasey v. Abbott, No. 13-cv-000193, Dkt. 561.

In any given interaction with a voter, a poll worker might ignore or misapply voter ID rules or demand identification even when it is not required. See Lauren Watts, Reexamining Crawford: Poll Worker Error as a Burden on Voters, 89 WA. L. REV. 175, 200 (2014), available at https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?article=4802&context=wlr.

Discrimination by poll workers is not a theoretical risk. For example, in one Pennsylvania case, poll workers were heard not only making hostile statements about Hispanic voters but also placing voter identification burdens on those voters but not on white voters. *See U.S. v. Berks County, Pennsylvania*, 277 F.Supp.2d 570, 575 (E.D. Pa. 2003).

Indeed, studies have consistently shown that the wide discretion given to poll workers under voter ID laws results in discriminatory implementation. A 2012 study found "strong evidence that Hispanic and black voters were asked for identification at higher rates than white voters, even after adjusting for other factors. See Rachel V. Cobb, et al., Can Voter ID Laws Be Administered in a Race-Neutral Mamner? Evidence from the City of Boston in 2008*, 7 Q. J. POLITICAL SCI. 1, 2, available at https://www.law.berkeley.edu/files/VoterIDLaw_Rachael-Cobb-Greiner.pdf. Similarly, a 2007 study by the Caltech/MIT Voting Technology Project found that when controlling for other factors, Black and Hispanic voters were "asked to show their identification 5 percent more often than whites, a statistically significant difference," and that the apparent discrepancy was most pronounced in low-income groups. See, Stephen Ansolabehere, Access Versus Integrity in Voter Identification Requirements, CALTECH/MIT VOTING TECHNOLOGY PROJECT (Feb. 2007), available at https://dspace.mit.edu/bitstream/handle/1721.1/96595/ytp-wp58.pdf?sequence=1&isAllowed=y.

In most instances, poll workers' understanding, implementation, and explanation of the voter ID requirements is what most directly dictates whether and what type of ballot a voter can cast, and their interactions with voters can meaningfully shape voters' confidence in the electoral process. See Lauren Watts, Reexamining Crawford: Poll Worker Error as a Burden on Voters, 89 WA. L. REV. 175, 197 (2014), available at https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?article=4802&context=wlr. Additionally, a voter who is wrongly denied the right to vote, or forced to vote a provisional ballot, despite satisfying the state's voter ID requirements could mistakenly conclude that she is unable to vote in future elections as well, thereby depressing future voter participation. Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters, THE NATIVE AMERICAN RIGHTS FUND, 75 (2020), available at https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf.

- In your testimony, you suggested that poll worker discretion in application of voter ID rules can be reduced by better poll worker training and also more uniform policies.
 - What sort of uniform voter ID policies would you recommend to reduce poll worker discretion in applying voter ID rules and support voter confidence and participation?

State laws on acceptable forms of identification will necessarily differ, to some extent, especially considering the varied voting populations and circumstances across the county. However, in every state, clear guidance and education for voters and the general public and specific, consistent, and mandatory training for elections officials and poll workers on the laws governing voter identification is paramount. This training and guidance must cover what types of IDs are accepted as well as the standard for "matching" IDs to voters at the polls. Such guidance, if properly implemented, can minimize poll worker discretion, and therefore reduce discriminatory burdens.

State guidance must provide clarity around what types of voter identification are acceptable, including for newly registered voters. In addition, states must clarify whether and to what extent these acceptable forms of voter ID may be used despite any expiration date to avoid unnecessarily strict applications by poll workers. Expiration dates on government-issued IDs are geared toward their primary purpose—for example driver's license expiration dates are intended to ensure regular affirmation of the person's ability to drive—and therefore should not necessarily apply to their use as voter identification. Likewise, if a state law includes a catch-all category of "government ID" or something similar as acceptable voter ID, then the state should make clear that this is a broad catch-all that includes *all* forms of government identification, including local IDs like library cards and school IDs, tribal IDs, and jail IDs.

This approach is crucial to easing discriminatory burdens and making voting accessible to eligible citizens who face transportation or mobility constraints. Jailed voters, for example, are often incarcerated without a qualifying photo ID. If they are barred from using jail IDs or other government-created documentation to verify their identity, then they are effectively prevented from requesting an absentee ballot and exercising their right to vote.

State policies should also make clear that voter ID laws should not require an "exact" match. The appropriate matching standard must account for the lived reality of many voters, especially including factors such as transiency in residency and differences in English and traditional naming conventions. It has been shown that applying an exact match protocol in the voter registration context led to a predictable and disparate impact on minority voter populations, see Georgia Coalition for the People's Agenda v. Raffensperger, No. 18-cv-04727, and the same is similarly true for voter ID requirements. In addition, state policies should include specific guidance regarding acceptable voter ID for transgender voters and for voters (often married women) who have changed their surname.

Poll workers should also be trained on the appropriate matching standard and taught to anticipate certain acceptable variations between voters' ID and election files. This training should

particularly teach poll workers to help vulnerable populations exercise their right to vote. Such training should include lessons on implicit bias and should prepare poll workers to work with populations of voters that might have more variability in their voter IDs—such as housing insecure and native populations—to ensure that acceptable forms of voter ID are not rejected in a discriminatory fashion.

What do you believe is Congress's role in ensuring that voter ID laws do not hinder voter confidence and participation?

The United States Constitution grants Congress broad authority to protect the right to vote, to regulate federal elections, and to defend the Nation's democratic process. Congress is also empowered to legislate to eliminate racial discrimination. Ensuring voters are not subject to discriminatory voting ID laws falls squarely within these mandates.

Under Section 5 of the Fourteenth Amendment, Congress has broad authority to enforce rights granted, including the right to vote. Section 1 of the Fourteenth Amendment protects the fundamental right to vote, which is "of the most fundamental significance under our constitutional structure." *Ill. Bd. of Election v. Socialist Workers Party*, 440 U.S. 173, 184 (1979); *see United States v. Classic*, 313 U.S. 299 (1941) ("Obviously included within the right to choose, secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted"). As a result, Congress has the authority to protect that right, including when states and localities have hindered it through voting ID requirements that preclude eligible voters from successfully casting their ballots.

Congress has the specific authority to legislate to eliminate racial discrimination in voting under both Section 5 of the Fourteenth Amendment, which grants equal protection of the laws, and the Fifteenth Amendment, which explicitly bars denial or abridgment of the right to vote on account of race, color, or previous condition of servitude. Congress is empowered to act where voter ID laws disproportionately burden certain groups of voters.

Additionally, Congress has the power to protect the right to vote from denial or abridgment on account of sex, age, or ability to pay a poll tax or other tax pursuant to the Nineteenth, Twenty-Fourth, and Twenty-Sixth Amendments. Onerous voting ID requirements—such as those creating barriers for individuals who change their name upon marriage, use school IDs, or face financial barriers to obtaining an acceptable form of voter ID—burden voters on account of their sex, age, and ability to pay. Congress is empowered to protect against precisely these types of burdens.

Finally, Congress has broad authority to regulate the time, place, and manner of federal elections under the Elections Clause of the Constitution, article I, section 4, clause 1, including by establishing standards for the fair, impartial, and uniform administration of federal elections by state and local officials. In the Constitutional Convention, the Framers characterized this grant of authority as necessary to check "abuses that might be made of the discretionary power" to regulate time, place, and manner of elections otherwise granted to the states. See Records of the Federal

Convention of 1787 at 240-41 (Max Farrand ed., Yale University Press 1937) (Statement of James Madison).

Congress is not only authorized to legislate against discriminatory voting ID laws and practices, but it is affirmatively tasked with protecting and ensuring eligible citizens' right to vote. Congress must fulfill the promise of Article 4, Section 4 of the Constitution that: "The United States shall guarantee to every State in this Union a Republican Form of Government[.]"

The Supreme Court's recent decisions concerning voting, and specifically the Voting Rights Act, heighten Congress's responsibility to enforce the Guarantee Clause, as well as to protect against discriminatory voting practices. Through its decisions in *Shelby County v. Holder* and *Brnovich v. Democratic National Committee*, the Supreme Court has seriously eroded the existing federal statutory protections for the right to vote. It has stunted the power of the VRA by gutting its most effective feature—preclearance—and has now erected high barriers to success under the remaining provisions of the VRA. The Supreme Court has made clear that the federal courts, without Congressional action, will not adequately defend the right to vote. These decisions make Congressional action in this area, including to ensure equitable voter ID laws, nonnegotiable. Moreover, in crafting legislation, Congress must be explicit in its mandates and leave no room for the courts to dilute its protections.

MINORITY QUESTIONS FOR THE RECORD FOR MS. DANIELLE LANG DIRECTOR, VOTING RIGHTS CAMPAIGN LEGAL CENTER

1. Did your organization provide grants to any state or local elections office to assist with the administration of the 2020 elections? If yes, please provide the amount of and recipient(s) of the grant.

No.

2. Did your organization provide assistance in any form other than grant funding to any state or local elections office to assist with the administration of the 2020 elections before, during, or after Nov. 3? If yes, please explain.

Campaign Legal Center generally does not assist states or localities with the administrative tasks associated with conducting elections. However, as a voting rights organization, we do contact state and local election officials across the country on a regular basis regarding matters of election administration policies. In connection with the 2020 elections, we conducted litigation and advocacy with and against such officials in states including Georgia, Minnesota, New York, and Tennessee.

HEARING SUBCOMMITTEE ON ELECTIONS OF THE

COMMITTEE ON HOUSE ADMINISTRATION
"VOTING IN AMERICA: THE POTENTIAL FOR POLLING PLACE QUALITY AND
RESTRICTIONS ON OPPORTUNITIES TO VOTE TO INTERFERE WITH FREE AND FAIR
ACCESS TO THE BALLOT"

JUNE 11, 2021

MAJORITY QUESTIONS FOR THE RECORD

FOR

Ms. Isabel Longoria
Elections Administrator, Harris County, TX

1. As a local election administrator with extensive experience running elections in Harris County, what is your perspective on the role of Congress in protecting voting rights in Harris County, the state of Texas and the nation as well?

The role of Congress in protecting voting rights across the nation is to ensure parity in voting access across all 50 states. When states choose to enact policies that disproportionately disenfranchise certain minority populations, as the State of Texas has done and continues to do, Congress must enact a preclearance system to review such laws and exercise its constitutionally-granted power to stop race-based discrimination.

- 2. In your testimony, you described how various provisions in S.B. 7 would have disproportionately harmed access to voting for minority voters. You also testified that the voting restrictions in S.B. 7 would not be possible if there was a preclearance system under the Voting Rights Act in which Texas would have to preclear voting law changes. It has been reported that the Governor of Texas plans to call a special session to try to resurrect and pass S.B. 7 into law.
 - a. Can you describe what you think will happen to voting rights for minority voters in Harris County if preclearance is not restored and legislation like S.B. 7 becomes law?

The Governor of Texas has already called a special session in Texas. Currently, the newly numbered voter restriction bills in the State House and Senate are House Bill 3 and Senate Bill 1, respectively. If either of the bills are passed, they will hurt minority voter access to the polls. Some of the provisions in both bills include bans on voting innovations created

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ahead of the 2020 November election: 24 hour voting, drive thru voting, and proactively sending seniors applications to vote by mail. All three of these were disproportionately used by voters of color in Harris County. Further the bills would impose jail felonies on election workers for making minor mistakes, empower poll watchers so they cannot be removed for harassing or intimidating voters unless an election worker observes such violation, place further restrictions on caregivers and assistants who help people with disabilities and seniors, and burden people who vote by mail to provide needless information such as a driver's license or social security number.

b. What do you think needs to happen to protect voting rights in Harris County?

Congress must re-institute a federal preclearance formula to ensure state legislatures do not infringe on minority voting rights. Additionally, implementing programs like mandated online voter registration, requiring mail ballot applications to renew automatically for people over 65, allowing individuals on parole to vote, and other voter access programs would set the national standard that the United States is voter focused.

3. Please describe any examples of legislation enacted in Texas in recent years that have made voting harder for minority communities, especially regarding polling places and access to alternative ways to vote.

In 2011, the Texas Legislature mandated photo ID for all in-person voters. A federal judge found that lawmakers intentionally discriminated against Latino and Black voters in passing this law.¹

In 2011, the Texas Legislature required that Volunteer Deputy Registrars (people who register others to vote) must be U.S. citizens, whereas previously, they only needed to be deputized to do so. Experts from the Brennan Center noted that this requirement would disproportionately

 $^{^1}$ Malewitz, Jim, Texas intentionally discriminated with 2011 voter ID law, judge rules (again), Texas Tribune, Apr. 10, 2017, https://www.texastribune.org/2017/04/10/texas-intentionally-discriminated-2011-voter-id-law-judge-rules-again/

hurt Black and Hispanic voter turnout because they were more likely to be registered to vote through registration drives.²

In 2011, the Texas Legislature made it a misdemeanor to compensate registrars based on how many people they registered, or to present a registrar with a quota to reach as a condition of payment or employment. A study by the Brennan Center and New York University School of Law found that 26,000 Texans were registered to vote through drives that were made "extremely difficult or impossible under the new laws." 3

In 2019, the Texas Legislature banned mobile polling places which previously was used to increase voting access at community colleges, supermarkets, churches, and other areas.⁴

Until being ordered to do so by a federal court in 2020, the Texas state government refused to implement the federal motor voter law which requires states to allow residents to simultaneously register to vote online when applying for, renewing or filing a change of address for their driver's license.

- 4. You testified that Harris County receives election administrative financial support from non-profit organizations.
 - a. Please describe the nature of the work of such organizations.

Harris County has received administrative financial support from the Houston Endowment, the Center for Tech and Civic Life, and the League of Women Voters. The Houston Endowment is a private foundation that partners with others in the nonprofit, public and private sectors to improve quality of life for the residents of greater Houston. The Center for Tech and Civic Life is a nonprofit that helps election officials adopt the tools and skills necessary to meet the changing needs of today's public. The League of Women Voters of Houston is a nonpartisan advocacy organization that works to increase voter registration and turnout.

² Aguilar, Julian, Will New Voter Registrar Rules Decrease Turnout?, Texas Tribune, Oct. 12, 11, https://www.texastribune.org/2011/10/12/groups-say-id-isnt-only-hurdle-minority-voters/

³ Kasdan, Diana, State Restrictions on Voter Registration Drives, Brennan Center for Justice, 2012, https://www.brennancenter.org/sites/default/files/legacy/publications/State%20Restrictions%20on%20Voter%20 Registration%20Drives.pdf

⁴ Clifton, Jo, 'Death of mobile voting' bill to complicate elections, Austin Monitor, May 29, 2019, https://www.austinmonitor.com/stories/2019/05/death-of-mobile-voting-bill-to-complicate-elections/

b. Please describe how Harris County was able to receive such election administrative funds from such organizations.

The Harris County Elections Administrator's Office seeks to increase voter registration and turnout among all eligible voters in the county. For each of these grants, the Office demonstrated how received funds would be used to ensure more people could participate in our civic democracy, particularly those living in historically disenfranchised communities.

c. Why was there a need in Harris County for financial support for election administration from non-profit organizations?

The COVID-19 pandemic introduced novel concerns for elections administration ranging from providing PPE to workers and voters but also providing large enough spaces to ensure voters could vote in a safe manner. As the third largest county in the United States with nearly 2.5 million registered voters, Harris County was clear-eyed about what it would take to meet the challenge of assuaging voter concerns of staying safe while voting. In order to create a safe, secure, accessible, fair, and efficient voting process, the County required additional funds to implement the various voter-centric strategies.

d. Please describe how such funds have been spent.

Funds were spent on purchasing PPE equipment (face masks, face shields, hand sanitizer, plastic screens, finger cots, gloves, anti-bacterial wipes, social distance floor stickers, etc.), renting out larger spaces to serve as polling locations, employing more voting clerks to guide and process voters securely, voter outreach to historically disenfranchised communities, implementing voter protection hotlines, and data management tools to ensure real-time responsiveness More on the office 2020 initiatives can be found here: https://harrisvotes.com/SAFE. Other recent grants have supported efforts to increase voter outreach and data transparency.

MINORITY QUESTIONS FOR THE RECORD FOR Ms. Isabel Longoria Elections Administrator, Harris County, TX

 Did your organization provide grants to any state or local elections office to assist with the administration of the 2020 elections? If yes, please provide the amount of and recipient(s) of the grant.

I am not aware of any grants to any state or local elections office to assist with the November 2020 elections.

2. Did your organization provide assistance in any form other than grant funding to any state or local elections office to assist with the administration of the 2020 elections before, during, or after Nov. 3? If yes, please explain.

Aside from sharing best practices with local entities that contracted us to run their elections, or others that were interested in learning from our innovations, I am not aware of any assistance that my office has provided.

3. For drive-through voting, there could be issues with ensuring electioneering is not happening and difficulty with tracking the chain of custody of ballots. Also, if large vehicles carrying many people pull up to vote, it would be nearly impossible to ensure privacy for voting for each of those voters. Do you think these issues pose a problem for allowing drive-through voting and that inperson voting eliminates the concerns raise in this question? Please explain.

Harris County follows the law and maintains the integrity of the election process through all forms of voting. In order to ensure individual privacy while voting, all voters were required to turn off electronics and remain silent while inside the polling area. Because election workers monitor voters in both in-person and drive thru polling locations to ensure these laws are abided by, our office is fully confident in the security of our elections.

Just like other in-person voting options, electioneering is prohibited within 100 feet of the entrance to drive thru polls. As such, election workers had physical markers in place to implement the electioneering ban and were also provided adhesive coverings to temporarily cover any bumper stickers that violated the electioneering law.

Lastly, the office uses the same machines, check-in, security, and other protocols for all in-person voting, which encompasses indoor, curbside and drive thru voting.

SUBMISSIONS FOR THE RECORD

APPENDIX A



Waiting to Vote

Racial Disparities in Election Day Experiences

By Hannah Klain, Kevin Morris, Max Feldman, and Rebecca Ayala With a foreword by Myrna Pérez PUBLISHED JUNE 3, 2020

Brennan Center for Justice at New York University School of Law A1

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The Brennan Center's Democracy Program encourages broad citizen participation by promoting voting and campaign finance reform. We work to secure fair courts and to advance a First Amendment jurisprudence that puts the rights of citizens — not special interests — at the center of our democracy. We collaborate with grassroots groups, advocacy organizations, and government officials to eliminate the obstacles to an effective democracy.

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Foreword

he pictures of Milwaukeeans waiting in line to vote on April 7 with homemade personal protective equipment were both beautiful and horrifying. It was beautiful — inspiring even — that with a deadly pandemic on their doorsteps, so many people still cared so much about their right to vote that they went to the polls. And it was horrifying that they had to risk their health in order to do so.

News reports indicated that Milwaukee, the most diverse city in a largely white state, had reduced its usual 180 polling sites to just five. Covid-19 has exposed serious problems in our election systems, and it has made the need for reform urgent. Voters of color and demographically changing communities all across the country already knew this, though. As this report details, Black and Latino Americans face longer wait times on Election Day than white voters. In the past, long wait times were disruptive and disenfranchising. In the middle of a pandemic, they could also be deadly.

Though completed before the eruption of the coronavirus, this report is even more critical now because it provides information regarding community needs as well as mistakes commonly made in planning for and staffing in-person voting. While the risk of Covid-19 will no doubt move more voters to cast their ballots by mail, some

communities — more typically communities of color — rely on polling places. We must make sure that there are in-person options, and that they have enough of the right kinds of resources.

The period leading up to the November general election will be marked by extreme disruption and hardship in all facets of American life. At the time of publication, the pandemic has killed more than 100,000 Americans. It has also caused schools to close, people to lose their jobs, and Americans to distance themselves from one another. Our fundamental right to vote and our democratic processes are more important than ever: The officials we elect will make high-stakes decisions that will impact our health, safety, and welfare.

In these dire times, our country will not benefit from the judgment and experiences of all its citizens unless all Americans can vote freely and safely.

Myrna Pérez Director, Voting Rights and Elections Program Brennan Center for Justice at NYU School of Law

Introduction

he 2018 general election saw the highest turnout in a midterm in decades. While many voters were able to cast a ballot quickly and easily in that election, others faced hours-long lines, malfunctioning voting equipment, and unexpectedly closed polling places. We estimate that some 3 million voters waited 30 minutes or more to cast their ballot. Many of these voters were concentrated in the southeastern United States, home to large shares of nonwhite voters.

Long lines and wait times have plagued several elections over the past decade. The consequences can be far reaching. For example, the Bipartisan Policy Center estimates that more than half a million eligible voters failed to vote in 2016 because of problems associated with the management of polling places, including long waits. 5

For this report, we analyzed data from two nationwide election surveys regarding the 2018 election: the Cooperative Congressional Election Study, a 60,000-person survey on Election Day experiences, and the U.S. Election Assistance Commission's Election Administration and Voting Survey, which asks administrators detailed questions about how they conduct elections. We also interviewed nearly three dozen state and local election administrators.6 Further, we examined the electoral statutes on the books in every state in the nation to understand the sources of disparate wait times in 2018 and develop policy recommendations for lawmakers and election officials ahead of 2020.7 Some previous research has investigated the relationship between wait times and electoral resources - specifically polling places, voting machines, and poll workers.8 But no prior study has examined the relationship on a nationwide scale. We find:

- Latino and Black voters were more likely than white voters to report particularly long wait times, and they waited longer generally. Latino and Black voters were more likely than white voters to wait in the longest of lines on Election Day: some 6.6 percent of Latino voters and 7.0 percent of Black voters reported waiting 30 minutes or longer to vote, surpassing the acceptable threshold for wait times set by the Presidential Commission on Election Administration, compared with only 4.1 percent of white voters. One generally, Latino voters waited on average 46 percent longer than white voters, and Black voters waited on average 45 percent longer than white voters.
- Voters in counties with fewer electoral resources per voter, relative to other counties, reported longer wait times in 2018. In this report, we offer the first national-level statistical evidence that counties with

fewer polling places, voting machines, and poll workers (referred to hereafter as "electoral resources") per Election Day voter than other counties had longer wait times in 2018. By "Election Day voters," we mean voters who cast in-person ballots on Election Day (referred to hereafter as "voters"). Voters in counties with the fewest electoral resources per voter reported waiting two to three times as long to cast a ballot on Election Day as voters in the best-resourced counties.

Given those two statistical findings, some might conclude that voters of color wait longer because they tend to live in counties with fewer electoral resources. Our analyses do not support this hypothesis; on average, we find, counties with higher minority shares of the population did not have fewer resources per voter than whiter counties did in 2018. Our statistical models do, however, establish that with fewer resources, the racial wait gap would have been even larger.

- Counties that became less white over the past decade had fewer electoral resources per voter in 2018 than counties that grew whiter. The average county where the population became whiter had 63 voters per worker and about 390 voters per polling place. In comparison, the average county that became less white had 80 voters per worker and 550 voters per polling place.¹²
- Similarly, counties where incomes shrank over the past decade had fewer electoral resources per voter in 2018 than counties where incomes grew over the same period. The average county where real incomes grew had 74 voters per worker and 470 voters per polling place, while counties where real incomes declined averaged 82 voters per worker and 590 voters per polling place.

Our findings suggest that allocating equal resources among counties and precincts is not sufficient to produce equal wait times for voters, particularly those of color and of lower incomes. Instead, election administrators must target those counties and precincts with a history of long wait times and allocate enough resources to these locations to equalize the wait times for all voters. The goal for election administrators should be to distribute resources in a manner that produces a similar Election Day experience for all voters.

Given these findings, we make the following recommendations to election administrators:

- Provide resources sufficient to minimize voter wait times. Election officials in counties that have encountered long waits in recent elections should increase the quantity and quality of resources allocated, and state lawmakers should ensure that resources are allocated sensibly between and within counties to prevent disparate wait times.
- Plan for an above-trend spike in voter turnout. Between the 2014 and 2018 midterm elections, voter turnout spiked from the lowest it had been in 72 years to the highest in decades.¹³ This created problems where election administrators had relied too heavily on past turnout trends to allocate resources.¹⁴ Voter turnout is poised to increase dramatically in 2020 over past presidential elections, and election administrators should not be misled by past trends when making resource allocation decisions.¹⁵
- Account for policy changes that may impact turnout. State election policies can change from election to election, and these changes may impact the number

- of individuals who vote on Election Day, early in person, absentee, or by mail. Administrators must take these new policies into account when estimating turnout levels and allocating resources.
- Increase compliance with resource mandates. State
 officials should review their standards for resource
 allocation to ensure that counties are in compliance
 and standards are appropriate given resource levels
 and wait times. Advocates should hold states to those
 standards in 2020.
- Limit polling place closures. Administrators should examine voter turnout data and early voting usage when making decisions about eliminating polling places, and they should not do so without a firm analytical justification.
- Develop comprehensive vote center transition plans. Administrators should act carefully when transitioning to vote centers. Vote centers should be piloted in lower-turnout elections, and administrators should not close or combine voting locations until they fully understand how vote centers will affect turnout.
- Expand language assistance. Jurisdictions that narrowly missed the legal mandate to provide non-English-language assistance under the Voting Rights Act should nonetheless offer language assistance in the 2020 election.

Overview of Methodology

This report draws on both quantitative and qualitative research methods, which we summarize below. To read more about our data sources and our econometric modeling, see the Quantitative Technical Appendix.

Quantitative Methodology

The Brennan Center leveraged national survey data to interrogate the relationships among racial and economic demographics, county-level election resources, and wait times faced by voters. In particular, we incorporated data from three sources: the Cooperative Congressional Election Study (CCES), the Election Administration and Voting Survey (EAVS), and the U.S. Census Bureau's five-year American Community Survey (ACS) estimates.

The data on how long voters waited to cast a ballot comes from the CCES, § This 60,000-person survey is conducted after each federal election. F It is weighted to be nationally representative and asks voters a host of questions about their sociodemographic characteristics and their experience on Election Day that year. Much of the existing academic research on voters' wait times relies on this survey data. §

We also use data from the biennial EAVS, which is administered by the U.S. Election Assistance Commission after every federal election. Fine EAVS asks local election administrators to report the number of registered voters in their jurisdiction, the number of ballots cast on Election Day, and other information pertaining to election administrators. Election administrators are also asked to report the number of polling places they had open on Election Day and the number of Election Day poll workers and voting machines they had in place within a jurisdiction. We merged the data garnered from the EAVS and the CCES to explore the relationship between county-level resources and wait times. Fig. 20

Looking for disparities between counties could mask disparities within counties. In other words, it is possible that certain towns or neighborhoods within counties get more resources per voter than other parts of the county — something we would miss by looking only at how many resources a county deployed in aggregate. To test the possibility of uneven resource distribution within counties, we analyzed precinct-level data from dozens of counties around the country. These included counties where reports of racial disparities in wait times were prevalent. Our within-county analyses; we found no evidence that racial and ethnic minorities systematically receive fewer resources than white voters.

Because this report focuses on how Election Day resources impacted voter experience in 2018, we have excluded the estimated wait times of respondents who reported voting early (whether in person or by mail) and of those who live in counties that vote primarily by mail.²¹

Qualitative Methodology

To identify specific factors that contribute to long voter wait times and electoral resource challenges, we interviewed state and local election officials. A variety of methodologies were used to select interviewees: We scoured news reports after the 2018 election to determine where the longest lines formed. We tracked parts of the country where Twitter and Facebook users posted about facing long lines on Election Day. We also used survey data to identify counties where there were reported racial disparities in wait times. On the basis of these findings, we spoke with state and local election administrators in 32 jurisdictions across the country, including some of the most populous counties in the nation, such as Harris County, Texas, and Maricopa County. Arizona.²²

Limitations

It is important to recognize the limitations of this study, as is the case with any empirical research of this nature. The first set of limitations regards the quantitative data available. There is not, for instance, perfect reporting to the EAVS about the number of resources in each county; we must assume, therefore, that trends identified using counties that do report to the EAVS hold even in the counties that do not. Moreover, the EAVS data can assess the quantity of resources but not their quality. The same number of voters per machine, for instance, in two counties might produce vastly different wait times if the machines in one county are much older than those in the other. The same holds true for poll workers: we can measure the number of workers but not the quality of available training, the extent to which they reflect their community, or whether their language skills match the

Our qualitative methodology represents our best effort to combat the limitations imposed by the quantitative approach. We developed our interview instrument with an eye toward identifying factors that could not be captured in the quantitative data. We asked election administrators how hard it was to find poll workers and whether they emphasized hiring poll workers who reflect their counties' demographics. We also asked them about their contingency plans for handling unexpected events,

like broken machines. Since we could not speak with administrators from every county in the country, we sought to speak with a diverse array of them.

These limitations, we hope, chart the path for future research on the relationship between resources and wait

times. There are certainly nuances that our research design fails to reveal, and there may be material ways, not captured by the models presented herein, in which nonwhite populations receive fewer resources than white ones.

Latino and Black Voters Were More Likely to Report the Longest Wait Times in 2018

ost voters waited far less than 30 minutes to cast a ballot in 2018: according to our analysis of the CCES, more than 47 percent of voters reported waiting in no line on Election Day, and the average wait time was just seven minutes.²³ Still, far too many voters were forced to wait a long time to vote. According to our analysis of the CCES, roughly 3 million people — or between 4 and 5 percent of all in-person Election Day voters — waited 30 minutes or longer to vote on Election Day in 2018.²⁴ A disproportionate number of them were Black or Latino.

The Racial Wait Gap in 2018

A large body of recent scholarship has established that throughout the country Latino and Black voters wait longer to cast their ballots than white voters. Indeed, a quantifiable racial disparity in voting wait times has been identified consistently over the past decade.²⁵

According to our analysis of the CCES, voters of color were also more likely than white voters to report waiting a very long time to vote in 2018. Specifically, 4.1 percent of white voters reported waiting in line 30 minutes or longer, while more than 6.6 percent of Latino voters and 7.0 percent of Black voters reported facing such delays. In addition, Latino and Black voters who cast a ballot in person on Election Day in 2018 reported, on average, substantially longer wait times than white voters. Latino voters waited almost 46 percent longer than white voters, and Black voters waited 45 percent longer, on average. According to our analysis, in 2018 on average, Latino voters waited 9.5 minutes to vote and Black voters waited 9.4 minutes, while white voters waited only 6.5 minutes to cast a ballot.

These findings are consistent with a study of the 2012 election conducted by the Brennan Center. They are also consistent with other research in the field. This racial wait gap has been established in the literature using multiple methods, including analyses of self-reported wait times and cell phone data. E

Long wait times are more than an inconvenience. They can disenfranchise people who are unable to stay in line to cast a ballot. Moreover, long waits reduce voter participation in subsequent elections.²⁰

Factors Contributing to the Racial Wait Gap

Over the past decade, studies have explored the factors contributing to this racial wait gap. Researchers have established that some of the gap is driven by demographic factors. For example, multiple studies have shown that voters of all races are more likely to wait longer in counties with higher population density, and Latino and Black voters disproportionately live in these areas.³⁰

At least one study finds that county-level demographics cannot entirely explain the wait gap. Voters of color report waiting longer than white voters at the polls even after researchers control for the different types of counties in which they live. ³¹ Nor can partisan bias, restrictive voting laws, income inequality, or racial segregation fully account for the wait gap. ³²

The Brennan Center previously established a relationship between racial disparities in electoral resources and the wait gap in the 2012 election. In the report Election Day Long Lines: Resource Allocation, the Brennan Center studied resource allocation on Election Day in Florida, Maryland, and South Carolina.³³ We found that fewer electoral resources were a significant contributor to long waits and that voters in precincts with higher percentages of minority voters experienced long waits at the polls. We also found that voters in precincts with higher percentages of minority voters had fewer voting machines.³⁴

In the 2018 election, we found that some of the racial wait gap can be explained by demographic factors, a finding consistent with prior research by others. For example, the gap between white and Black voters can be attributed in part to the fact that Black voters are more concentrated in states — particularly in the Southeast — where all voters wait longer to cast a ballot. Similarly, both Latino and Black voters are more likely to live in dense, urban counties, where voters of all races face longer wait times. Latino and Black voters also tended to be younger than white voters in 2018, and young people reported long wait times regardless of race. These findings hold even after controlling for demographic factors such as income, education, and age.

Our statistical analyses show that the 2018 racial wait gap cannot be explained by the level of resources per voter in counties populated largely by racial and ethnic minorities. In fact, whiter counties tended to have fewer resources per voter than less-white counties. This is not, however, an argument for reducing the levels of resources in the less-white counties; had minority voters received fewer resources, the racial wait gap would have been even larger.

Electoral Resource Parity Is Not Enough

>> Racial gaps in Election Day wait times demonstrate that certain communities may require additional resources to reach equitable outcomes — a finding that has roots in an array of fields.36 These communities often face social, economic, or environmental disadvantages that adversely impact individuals; therefore they may need expanded or different supports to achieve desired outcomes. Research on education in low-income communities is illustrative of this phenomenon. For example, one report found that "students in poverty are likely to need additional supports in order to succeed academically. In other words, simply offering equal [education] funding isn't enough" to equalize outcomes among students of diverse backgrounds.37 Similar findings exist in the health-care field, where studies have shown that the U.S. health disparities gap cannot be solved simply by providing an equal number of resources to all patients. "In order to reduce the health disparities gap, the underlying issues and individual needs of underserved and vulnerable populations must be effectively addressed."38 This report suggests this phenomenon is also at play in the relationship between wait times and electoral resources.

Our interviews with election administrators indicate that resource gaps that do not appear in raw counts of polling places, voting machines, and poll workers may exacerbate the racial wait gap. Insufficient non-Englishlanguage assistance may be one contributing factor. Our interview set revealed that while some election officials are aware of a growing number of voters who need election materials in non-English languages, few counties that

are not mandated to provide such materials proactively do so. 39

Commentators have long noted that voting can be daunting for individuals whose first language is not English. Inadequate assistance provided to these voters can result in confusion and delays at the polls. Simply adding more poll workers in a Spanish-preferred neighborhood, for instance, is likely to have little effect on voter wait times if the bottlenecks in these polling places arise from language-based confusion and the additional poll workers do not speak Spanish.

Section 203 of the Voting Rights Act (VRA) requires certain jurisdictions to provide multilingual voting materials and language assistance at polling places. A Roughly one-third of the counties whose officials were interviewed for this report fall into that category. A Many of the election administrators we spoke to are taking steps to comply with their legal obligations. A However, some county election officials told us they face challenges in providing adequate language assistance resources despite the mandate to do so.

Furthermore, while Section 203 provides a critical safety net, it should not be the only measure of a jurisdiction's language assistance needs. Many jurisdictions that are not yet required to meet the VRA's language assistance mandates have significant and growing numbers of voters who do not speak English as their first language. 49 Nevertheless, we found that among the counties whose officials we interviewed, most offer few to no services to voters with limited English proficiency. 46 In Manassas City, Virginia, for example, Latinos make up nearly 40 percent of the overall population. 47 Although the county does recruit Spanish-speaking poll workers, it has had difficulty recruiting an adequate number for Election Day and does not provide ballots or other materials in Spanish. 48

Voters with Fewer Electoral Resources Wait Longer to Vote

any factors influence how long voters wait in line on Election Day, and long waits can arise both from decisions made by election administrators and from voter behavior. For example, the time of day when a person shows up to vote, the physical layout of a polling place, and the type of voting machine used all influence the amount of time it takes to cast a ballot.⁴⁰

Some research has attempted to understand the relationship between wait times and electoral resources. Do However, no previous study has examined the relationship on a nationwide scale. We present here the first national-level statistical evidence that counties with fewer electoral resources relative to other counties had longer wait times in 2018.

Analyzing data from the EAVS and the CCES, we found that voters in counties with fewer electoral resources per voter than other counties reported longer wait times, on average, in 2018. This was true for each of the three primary ways of measuring electoral resources: votes cast per polling place, votes cast per poll worker, and votes cast per machine. The more voters per electoral resource allocated, the longer the delay. Voters in counties with the most voters per polling place, poll worker, and machine were also the most likely to wait in lines of 30 minutes or more.

- In 2018, voters in counties with the most voters per polling place waited more than twice as long as voters in counties with the fewest voters per polling place.
- Inadequate numbers of poll workers were an especially important contributor to long waits. In counties with the fewest voters per poll worker, voters waited less than 5 minutes; where poll workers were spread among the most voters, the average wait time was nearly 15 minutes.
- Counties with the most machines available for voters saw average waits of around 5 minutes, while the average wait time in counties with the fewest machines per voter was more than 13.5 minutes.

These findings hold true even after controlling for sociodemographic characteristics of individuals and their counties.

Factors Contributing to Inadequate Resource Allocation

Resource allocation decisions are made largely at the local level, with some state guidance. In our interviews, we found that county election administrators look to four main factors when determining how to allocate resources: funding, statutory requirements or guidelines, the quality of available resources, and unique community needs, as shown by such indicators as voting trends and demographic shifts.⁵¹

As a result of this decentralized approach to resource allocation, resourcing varied substantially — both between and within states — in the 2018 election. In places like North Carolina, there were tremendous disparities in the level of resources available to voters on Election Day from one county to the next. In several North Carolina counties, there were more than 500 voters per voting machine in 2018, while in others there were as few as 51.22

More broadly, the discrepancy between the best and the worst was significant: the IO percent of counties with the fewest voters per polling place averaged fewer than 185 voters per site, while the IO percent of counties with the most voters per polling place averaged over 1,060 voters per site.

Counties That Became Less White and Counties with Declining Incomes Had Fewer Resources Per Voter in 2018 than Other Counties

We found an alarming correlation between demographic and economic change over the past decade and electoral resources in 2018.53 Counties where the white share of the population shrank over the past 10 years had fewer resources per voter relative to other counties. Additionally, counties where real (that is, inflation-adjusted) incomes declined or grew slowly had fewer resources per voter — even after accounting for other factors — than those where real incomes grew quickly.54

- The average county where the population became whiter had 63 voters per poll worker and about 390 voters per polling place. In comparison, the average county that became less white had 80 voters per worker and 550 voters per polling place.⁵⁵
- Similarly, counties where the median income grew quickly over this same period had greater numbers of polling places and poll workers per vote cast in 2018 than those counties where the median real income

declined or grew slowly. The average county where real incomes grew had 74 voters per worker and 470 voters per polling place, while the average county where real incomes declined had 82 voters per worker and 590 voters per polling place.⁵⁶

An example is useful to understand these findings. If two counties were equally white in 2017, but one had seen its white share of the population decline over the preceding 10 years while the other had seen its white share remain constant, the county where the white population had declined would likely have had fewer electoral resources per voter in 2018, according to our models.

In the analysis above, we divided counties into discrete groups: places that became less white or more white over the past decade, and places where incomes went down or up over the same period. Regression analysis shows that what matters is not just whether these counties became less white or saw incomes decline, but also the extent to which these changes occurred. Not only did counties that became less white have fewer resources per voter than counties that became whiter; counties where the white share of the population declined dramatically had fewer resources per voter than counties where there was only a modest decline of the white share of the population. Likewise, counties where median incomes declined most dramatically had fewer resources per voter than those where the decline was less pronounced.

Our findings align closely with related social science research. Multiple studies have found that jurisdictions undergoing demographic change often struggle to fund and provide public goods. As one paper examining demographic change and residents' willingness to increase taxes explains, it is "communities that have undergone sudden demographic changes, not communities that have long been diverse, where diversity's effects are pronounced. Counties where incomes have decreased have a diminishing tax base and, consequently, are likely to cut back on public expenditures more quickly than counties with more stable tax receipts. While a county's demographic profile matters for resource allocation, so too do changes in these demographics — and counties that are getting whiter and where incomes are growing may be investing more in critical electoral resources.

Noncompliance with Statewide Minimum Requirements

One way to address the risk of significant resource disparities within states is to set and enforce robust statewide minimum requirements for electoral resources. At least 25 states have laws setting a floor for the number of polling places.⁵⁹ At least 15 states have laws pertaining to minimum numbers of voting machines or poll workers per voter.⁶⁰

These statutes are of little value, however, if they are not enforced. We analyzed statutory compliance nationwide and found that noncompliance was common in the 2018 election in several states. For example:

- In Illinois, 42 percent of precincts had more than 800 voters, the maximum allowed by law, and roughly 20 percent of counties had countywide averages exceeding the state maximum of 400 voters per machine.⁶³
- In Michigan, nearly a quarter of all precincts had more than the legally mandated 2,999 registered voters, and nearly 50 percent of counties had more than 600 registered voters per machine, the maximum allowed.⁶²
- In South Carolina, 31 of 46 counties exceeded the maximum of 250 voters per machine allowed by the state, for a 67 percent noncompliance rate.⁶³ More than 2.5 million South Carolinians are active registered voters in counties that have statutorily inadequate numbers of machines.

Furthermore, countywide averages can cover up variations within counties where some precincts are well
resourced and others struggle. Hall County, Georgia,
provides an example of how this plays out on the ground.
Although the average number of voters per machine in the
county did not exceed state maximums, one-third of polling places in the county had more registered voters per
machine than the state allowed. Accordingly, depending
on where they lived, voters in Hall County were assigned
to polling places with different resources on Election Day,
leading to divergent voting experiences.

Inadequate Planning Practices

Our interviews with election administrators suggest that some counties' election planning practices may be inadequate in the face of growing turnout and uncertainty over moves to early voting. Election administrators in several states across the country reported that they relied on turnout in comparable prior elections in their planning processes for the 2018 election.⁵⁶ (That is, while planning for the federal midterm election, administrators looked to turnout in previous federal midterms.) Overreliance on past turnout as a predictor of resource needs, however, can lead to significant problems when turnout surges, as it did in 2018. It is likely to do so again in 2020.⁵⁶

Prince George's County, Maryland, for example, used a formula that relied on historical turnout to determine the number of ballots supplied on Election Day. According to one election administrator, this formula had "always worked up until the 2018 general Election Day," when voters turned out at extraordinary rates. Officials had overestimated the number of early voters and underestimated the number of Election Day, Thirteen precincts ran out of ballots on Election Day. Hundreds of voters reportedly waited hours to vote, some past 10 p.m. Prince George's County has since decided it will no longer use this method of resource allocation.

New Laws Threaten Access to Early Voting

- >> Existing challenges related to inadequate planning and resources during early voting could be exacerbated by new laws that reduce the number of early voting locations and disenfranchise voters in smaller communities. For example:
- North Carolina's Senate Bill 325 passed in 2018 mandates uniform hours of operation at all temporary early voting sites. A An administrator in North Carolina explained that some counties had difficulty funding early voting sites because of the uniform hours requirement and thus had to close locations. In Forsyth County.
- election officials were forced to use a contingency fund to comply with the new law. 76
- Prior to the 2019 election, Texas implemented House Bill 1888, which requires early voting sites to remain open for the entire early voting period, eliminating mobile early voting sites. To Intravis County, an official explained that the law placed significant financial burden on the county and most directly targeted both rural voters and young voters on college campuses, many of whom lived in areas whose populations do not justify a permanent early voting site. To

This approach to planning can cause special problems in connection with early voting. Opportunities to cast a ballot before Election Day are increasingly popular, and administrators are struggling to predict turnout levels at early voting locations. This contributes to delays at the polls. In fact, according to our analysis of CCES data, early in-person voters were slightly more likely to face long waits than in-person Election Day voters.

Polling Place Closures

Another well-documented phenomenon is the steady increase in polling place closures. These closures might not be a problem if they simply reflected voters shifting to early, mail, or absentee voting. The U.S. Election Assistance Commission claims that a decrease in Election Day polling places can likely be explained by rising rates of early and absentee voting in some states and a shift to Election Day vote centers in others. We found, however, that several states with troubling voting rights records have seen the number of Election Day ballots cast per polling place swell in the past five years, suggesting that these closures are outpacing changes in voter behavior.

Using the EAVS, we tested the early voting hypothesis in Georgia and Louisiana, which have robust early voting programs and have been closing polling places over the past several years. We found that the increasing use of early voting fails to fully account for the increase in polling place closures. According to our analysis of EAVS data, the average polling place in Georgia had 530 in-person Election Day ballots cast in 2014. In 2018, the average polling places aw 770 in-person Election Day voters, an increase of nearly 50 percent. In Georgia and Louisiana, polling places are being closed faster than voters are switching to early voting.

The shift to vote centers raises a related concern. ⁸³ Vote centers replace the precinct-based system, instead allowing voters to cast a ballot at any location within their county. ⁸⁴ This approach can be efficient and voter-friendly by giving voters access to a greater number of polling locations. The transition to this system, however, can be fraught.

Officials report that it can be difficult to accurately determine turnout at newly implemented vote centers, which results in inadequate resources and long lines.⁵⁵ Are voters more likely to cast a ballot near their home before work? At their children's school? Or at a location near work on their lunch break? The difficulty of predicting the answers to these questions leads to some polling places being overresourced and others underresourced.

Polling Place Statutes: A Potential Bulwark Against Closures

- >> Thirty-two states have laws specifically pertaining to the closure of polling places. 86 These provisions set a procedural backstop that localities must follow when attempting to consolidate voting locations. Some states establish a time frame ranging from several months to one week before an election after which polling places cannot be moved, closed, or altered in any way. 87 Several polling place laws impose a "good cause" requirement, mandating that alterations to previously selected polling places may only occur when there is "an . . . unavoidable event," or in even more extreme circumstances, where there is "an emergency caused by an act of God."88 Many statutes even describe steps officials must take to notify voters when closing polling places.89
- >> Although noncompliance may currently be common, polling place laws can provide a statutory avenue for judicial intervention to regulate the closure of voting locations, particularly in vulnerable communities. ⁹⁰ Additionally, in counties impacted by polling place closures, transparency and advance warnings regarding reductions which in turn create opportunities for advocacy and activism can effectively stave off closures.

For example, Clark County, Nevada, moved to vote centers for the 2018 election. According to a county election official, this move made it harder to forecast critical elements of voter behavior. The unpredictability of citizens' responses to the new vote center model, coupled with record turnout in Nevada, created long lines throughout the county.

Looking ahead to the 2020 election, more than 60 counties in Texas, including several of the state's largest,

are expected to use vote centers.⁹⁴ Under Texas law, counties moving to vote centers are permitted to reduce the number of polling locations by 35 percent in the first election in which the model is used and by 50 percent in subsequent elections.⁹⁵ Some major counties have committed to maintaining past voting locations during the transition to vote centers.⁹⁶ Others already plan to shutter polling places.⁹⁷

Electoral Resource Challenges in 2020 and Beyond: Policy Recommendations

he 2020 election will challenge election administrators even more than the 2018 election did. Some project even higher turnout, given the hotly contested presidential race. And many voters will continue to have the option to cast a ballot at times other than Election Day, increasing uncertainty in election planning.

Our analysis of the survey data, electoral resource statutes, and interviews with election administrators suggests several worrisome trends that could lead to long — and uneven — wait times. However, with careful and proactive planning, our election system can be prepared to handle an uncommonly busy Election Day.

We make the following specific recommendations to election administrators:

- Provide resources sufficient to minimize voter wait times. Election officials in counties that have encountered long waits in recent elections should increase the quantity and quality of allocated resources — namely, polling places, poll workers, and voting machines and state lawmakers should ensure that resources are allocated sensibly among and within counties to prevent disparate wait times.
- Plan for an above-trend spike in turnout. Voter turnout is poised to increase dramatically in 2020,²⁰ and election administrators must avoid being misled by past turnout trends in presidential elections when making resource allocation decisions. As part of a conservative approach to resource allocation, counties should take into account their total number of registered voters. Consulting with community groups and experts in the field can help with allocation decision-making, as can exploring innovative technology. For example, the Rhode Island Board of Elections partnered with the University of Rhode Island to develop resource allocation algorithms.²⁰² According to the board, decisions derived from these algorithms have "helped eliminate most lines."
- Account for policy changes that may impact turnout. State election policies can change from election to election, and these changes can impact the number of individuals who vote on Election Day. Nevada, for example, will have automatic voter registration and same-day voter registration for the first time in 2020.™ These pro-voter reforms expand access to the ballot box and improve election administration but can throw off election administrators' turnout predictions. Election administrators must take new policies such as Nevada's into account when estimating turnout levels and allocating resources.

- Increase compliance with resource mandates. State
 officials should review their standards for resource
 allocation and ensure counties' compliance. Statutes
 mandating minimum levels of electoral resources also
 enable advocacy organizations, state attorneys general,
 and members of the public to monitor electoral resource
 allocation. Advocates should hold states to those standards in 2020.
- Limit polling place closures. In recent years, election officials have closed numerous polling locations.³⁰ As we have stated in this report, increased early voting does not fully account for these closures. Administrators should examine voter turnout data and early voting usage and avoid closing polling places without firm analytical evidence that doing so will not overburden remaining polling places. Further, election officials should consider opening additional polling places in areas where voter turnout levels are expected to be particularly high and long lines have developed in past elections.
- Develop comprehensive vote center transition plans. Administrators should act carefully when transitioning to vote centers. These should be piloted in lower-turnout elections so that administrators can better predict voter distribution trends. Administrators should also not close or combine voting locations until they fully understand how voters plan to use vote centers. No In addition, election officials should consider employing technological solutions to smooth the transition and maximize the effectiveness of the vote center model. In Williamson County, Texas, for example, voters can access a smartphone app that shows the nearest voting location in their county and the location with the shortest wait. 1979.
- Expand language assistance. Jurisdictions that narrowly missed the numerical threshold that would require them to provide non-English-language voting assistance under the Voting Rights Act should nonetheless aim to provide such assistance in the 2020 election.¹⁰⁸ In addition, lawmakers should follow the lead of cities and states that have gone beyond the VRA's requirements. For example, California has a lower

threshold for language assistance coverage than is federally mandated and has continued to expand access to non-English-language voting materials to communities throughout the state. 109 Proactive language assis-

tance policies will help ensure that all voters are able to cast a ballot and minimize confusion and delay at polling places.

Quantitative Technical Appendix

n this technical appendix, we present a fuller discussion of the quantitative data sources used in this report and the statistical models used to arrive at our results.

Data Sources

Much of the existing literature on long lines on Election Day has drawn from two national survey instruments: the Survey of the Performance of American Elections (SPAE) and the Cooperative Congressional Election Study (CCES). Day in Both survey instruments have historically asked voters about their experiences on Election Day, including how long they had to wait in line to cast a ballot. Unfortunately, the SPAE was not fielded after the 2018 election. This report, therefore, contains only estimates from the CCES on how long individuals waited in line to cast a ballot in the 2018 election.

Respondents to the CCES are asked approximately how long they had to wait to vote. Voters can pick from different buckets, such as "less than 10 minutes" or "10–30 minutes." Respondents' wait times are assumed to be the middle of each bucket; therefore, if someone reports waiting between 10 and 30 minutes, we assume the wait time to be 20 minutes. Voters who report waiting longer than 60 minutes are asked to approximate the number of minutes they spent in line in a free-text box; these responses have been manually coded by the Brennan Center research team.

To estimate county-level electoral resources, we incorporate data from the U.S. Election Assistance Commission's biennial Election Administration and Voting Survey (EAVS). The EAVS asks election administrators many questions about how elections are conducted in their jurisdictions. The Brennan Center previously used the EAVS to research voter purges. ¹¹¹ Other academic researchers have used the survey to investigate different aspects of election administration. ¹¹² Here we use the information regarding the resources each jurisdiction reported deploying on Election Day. We specifically examine the number of polling places, poll workers, and voting machines deployed in each county. ¹²³

Not all jurisdictions respond to the EAVS each year. Although a larger share of election administrators responded to the EAVS in 2018 than in prior years, we still do not know the resources in place on Election Day for every voter in the country. When we merge the CCES and EAVS data, however, we can calculate the number of voters per polling place, the number of voters per worker, and the number of voters per machine for at least four out of every five voters in the country. ¹¹⁴

A further issue with the EAVS is that, even when election administrators do respond to the survey, the data is sometimes clearly incorrect. Iowa, for instance, reported in 2018 that there were nearly 800,000 polling places. To avoid biasing our results, we have removed Iowa polling place data. To guard against the possibility of other erroneous data, we also exclude the 1 percent of counties reporting the most voters per polling place, voters per poll worker, and voters per machine. While it is not perfect, the EAVS data remains the best option available for researchers investigating national patterns in the distribution of Election Day resources.

Regression Specifications

The results discussed in the body of the report show that voters of color waited longer to vote and that voters in counties with fewer electoral resources per voter waited longer. We also show that counties where the white share of the population and real incomes declined had fewer electoral resources per voter on Election Day in 2018. These results are based on regression analysis, a common technique used among political scientists to understand the relationships among different variables.

Racial Wait Gap

We begin by presenting the regression model that interrogates wait times on Election Day, by race. As table I makes clear, nonwhite voters wait significantly longer: Black voters waited 2.8 minutes longer than white voters, and Latino voters waited 3.0 minutes longer than white voters, on average. Even after we add state fixed effects in model 2 (that is, after we control for the fact that some states have higher wait times than others), we see that voters of color waited in longer lines. This means that in any given state, these voters were more likely to wait in long lines, and that they were not simply more likely to live in states with longer wait times for everyone.

In model 3, we introduce county-level characteristics. These data sets are all derived from the Census Bureau's five-year American Community Survey estimates that end in 2017, and information about machine types comes from Verified Voting. After including these county-level factors, the Latino coefficient remains statistically significant. This means that, on average, Latino voters wait longer than white voters even after we account for important differences in the types of counties in which they live. Model 3 also makes clear that less-dense counties and those with older voters had shorter wait times on Election Day in 2018.

In model 3, the Black voter coefficient is no longer statistically significant. This means that much of the increased wait times faced by Black voters in 2018 could be explained by county-level factors. Black voters are more likely to live in denser counties with younger voters, where all voters faced longer waits.

Finally, model 4 adds individual characteristics to model 3. These include the respondent's family income, age, partisan affiliation, education, and marital status. We find that younger voters report waiting longer, but little else about an individual's characteristics explains wait time after we have accounted for the type of county in which the voter lives.

In model 4, the gaps between Black and white voters, and between Latino and white voters, are statistically nonsignificant at the 95 percent confidence level, but they are significant and negative for Asian and other voters. This means that racial minorities did not wait longer to vote in 2018 than white voters who lived in similar counties and had similar individual characteristics. Racial minorities, rather, are overrepresented among populations that wait longer across the board. In each model, robust standard errors are clustered by county.

Electoral Resources and Wait Times

To test the relationship between the number of voters per electoral resource in a county and voter wait times, we begin with the final model from the previous section; that is, we start with a statistical model that accounts for voters' individual, county, and state characteristics to explain wait times. We add to this model additional variables calculated using the EAVS data: the number of votes cast per polling place, per poll worker, and per voting machine. Table 2 presents the results of these models.

We find that voters who lived in counties with more votes cast per polling place on Election Day in 2018 waited longer to vote. This is true even after controlling for the other sociodemographic characteristics discussed in the previous section. Figure 1 presents the marginal effects plot demonstrating the relationship between votes per polling place and reported wait times. A marginal effects plot allows us to see the relationship between an independent variable of interest (the number of votes per polling place) and the dependent variable (reported wait times) after controlling for other variables. Figure 1 demonstrates that, after controlling for other characteristics, voters in counties with few voters per polling place waited in short lines. Counties with the fewest voters per polling place waited an average of only around 4 minutes, while voters in counties with the most voters per polling place had average waits of more than 10 minutes. In each of the charts below, the 95 percent confidence

band is included.

The theoretical relationship between the number of voters per poll worker and wait times is straightforward: workers must be available to check voters in, distribute ballots, and help address any confusion voters might have. Unsurprisingly, we find that as the number of voters per poll worker goes up, so too does the average wait time (again, after controlling for all other variables). Figure 2 shows that the average wait time in counties with the fewest voters per worker was less than 5 minutes; where poll workers were spread among the most voters, that average wait time exceeded 12 minutes.

The same pattern holds true when we examine the relationship between the average number of votes cast per machine at the county level. As figure 3 shows, holding all other factors constant, fewer machines per vote cast might cause bottlenecks that lead to longer lines. The most highly resourced counties saw average waits of around 5 minutes, while the average wait time in counties with the most voters per machine averaged more than 13.5 minutes.

Table 3 makes clear that, in addition to waiting longer overall, voters in the least-resourced counties were also more likely to wait in line for 30 minutes or more. These models use a logistic specification — the dependent variable takes the value "1" if a voter reported waiting 30 minutes or more, and a "0" otherwise. Once again, robust standard errors are clustered by state.

The marginal effects plots of these regressions, shown in figures 4, 5, and 6, make the relationship between electoral resources and long waits more apparent. These plots demonstrate that, after controlling for other sociodemographic county characteristics, fewer electoral resources per voter are associated with an increased likelihood of waiting more than 30 minutes. The 95 percent confidence interval is included.

County Characteristics and Resourcing Levels

Finally, we investigate which types of counties were the most likely to be inadequately resourced on Election Day in 2018. As discussed in the body of the report, counties that became whiter in the past decade had more resources in 2018 than counties that became less white. Similarly, counties where the median income grew (after accounting for inflation, estimated by the Bureau of Labor Statistics) had more resources than places where real incomes shrank. Table 4 demonstrates that these phenomena hold even after controlling for other relevant county and state characteristics.

Whiter and higher-income counties consistently had fewer resources on Election Day in 2018 than less white and less affluent counties. At the same time, counties in flux — those that saw their incomes decline or grow slowly, and those where the white share of the popula-

tion decreased the most quickly, over the past decade
— had fewer resources than those that had remained
more stable.

While the coefficients on change in percent non-His-

panic white and change in median income are quite large, this is driven in part by the relatively small range into which counties fall. Figures 7–11 present the marginal effects plots for these models.

TABLE :

Socioeconomics and Wait Times, 2018

Dependent Variable: Wait Time	(1)	(2)	(3)	(4)
Asian	-0.239	0.384	-0.613	-1.777***
	(0.72)	(0.651)	(0.552)	(0.588)
Black	2.846***	1.732**	0.503	0.183
	(0.796)	(0.784)	(0.857)	(0.983)
Latino	2.979***	2.923***	1.744**	1.474*
	(0.741)	(0.701)	(0.883)	(0.858)
Other Race	-0.17	-0.369	-0.800*	-1.460***
	(0.547)	(0.48)	(0.483)	(0.433)
County Population Density (100 people/square mile)			0.013***	0.012***
			(0.001)	(0.001)
County Share Non-Hispanic White			-3.786*	-4.067*
			(2.294)	(2.429)
County Share over 64 Years Old			-21.239**	-17.633**
			(9.035)	(8.945)
Voter's Age				-0.051***
				(0.009)
Family Income (\$10,000)				0.036
				(0.021)
Constant	6.544***	7.211***	14.888***	16.374***
	(0.522)	(0.229)	(1.82)	(2.164)
State Fixed Effects		Х	Х	×
DRE Machine Type Fixed Effects			X	×
Marital Status Fixed Effects				×
Education Status Fixed Effects				>
Political Party Fixed Effects				×
Observations	17,281	17,281	17,230	15,546
R ²	0.007	0.064	0.076	0.085
Adjusted R ²	0.006	0.061	0.073	0.081

^{*}p <.1 **p <.05 ***p <.01

TABLE :

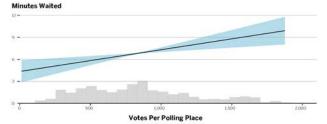
County-Level Resources and Wait Times, 2018

(1)	(2)	(3)
0.003***		
(0.001)		
	0.034***	
	(0.012)	
		0.006***
		(0.001)
0.010***	0.013***	0.013***
(0.001)	(0.002)	(0.001)
-3.211*	-8.476***	-3.858**
(1.861)	(2.458)	(1.932)
-6.56	-3.878	-9.817
(8.343)	(10.206)	(7.999)
-0.044***	-0.052***	-0.046***
(0.01)	(0.009)	(0.009)
0.022	0.045	0.028
(0.017)	(0.028)	(0.017)
9.398***	13.371***	13.761***
(2.753)	(3.714)	(2.336)
x	Х	>
X	X	>
×	X	>
x	X	>
×	X	>
×	х	>
14,101	11,810	13,533
0.095	0.104	0.095
0.09	0.099	0.09
	0.003*** (0.001) 0.010*** (0.001) -3.211* (1.861) -6.56 (8.343) -0.044*** (0.01) 0.022 (0.017) 9.398*** (2.753) X X X X X X X X 14,101 0.095	0.003*** (0.001) 0.034*** (0.012) 0.010*** 0.013*** (0.001) (0.002) -3.211* -8.476*** (1.861) (2.458) -6.56 -3.878 (8.343) (10.206) -0.044*** -0.052*** (0.01) (0.009) 0.022 0.045 (0.017) (0.028) 9.398*** 13.371*** (2.753) (3.714) X X X X X X X X X X X X X X X X X X X

*p <.1 **p <.05 ***p <.01

FIGURE 1

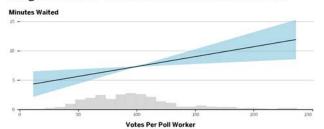
Marginal Effect of Votes Per Polling Place on Wait Times



Note: Distribution of number of votes per polling place shown at bottom.

FIGURE 2

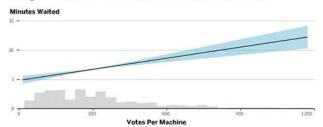
Marginal Effect of Votes Per Poll Worker on Wait Times



Note: Distribution of number of votes per worker shown at bottom.

FIGURE 3

Marginal Effect of Votes Per Machine on Wait Times



Note: Distribution of number of votes per machine shown at bottom.

County-Level Resources and the Likelihood of Waiting in a Long Line, 2018

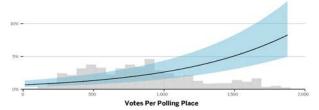
Dependent Variable: Waited in Long Line	(1)	(2)	(3)
Votes Per Polling Place	0.001***		
	(0.0002)		
Votes Per Worker		0.006**	
		(0.003)	
Votes Per Machine			0.001***
			(0.0004)
County Population Density (100 people/square mile)	0.002***	0.003***	0.003***
	(0.0003)	(0.0003)	(0.0002)
County Share Non-Hispanic White	-1.370**	-2.229***	-1.350**
	(0.637)	(0.787)	(0.591)
County Share over 64 Years Old	-1.796	-3.502	-3.281
	(3.225)	(4.115)	(2.913)
Voter's Age	-0.010***	-0.012***	-0.011**
	(0.003)	(0.004)	(0.004)
Family Income (\$10,000)	0.012	0.021	0.019*
	(0.01)	(0.013)	(0.011)
Constant	-2.650***	-1.231	-1.116
	(0.842)	(1.132)	(0.7)
State Fixed Effects	x	Х	Х
DRE Machine Type Fixed Effects	Х	X	×
Marital Status Fixed Effects	Х	X	×
Education Status Fixed Effects	×	Х	X
Political Party Fixed Effects	х	Х	×
Race/Ethnicity Fixed Effects	Х	X	×
Observations	14,101	11,810	13,533
Log Likelihood	-2239.038	-2027.823	-2129.303

"p <.1 ""p <.05 """p <.01

FIGURE 4

Marginal Effect of Votes Per Polling Place on Long Waits

Predicted Probability of Waiting 30 or More Minutes

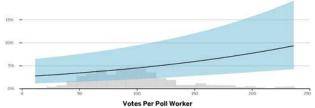


Note: Distribution of number of votes per polling place shown at bottom.

FIGURE 5

Marginal Effect of Votes Per Poll Worker on Long Waits

Predicted Probability of Waiting 30 or More Minutes

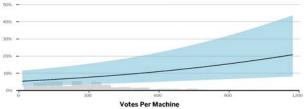


Note: Distribution of number of votes per poll worker shown at bottom.

FIGURE 6

Marginal Effect of Votes Per Machine on Long Waits

Predicted Probability of Waiting 30 or More Minutes



Note: Distribution of number of votes per machine shown at bottom.

County Demographics and Resources, 2018

DEPENDENT VARIABLE:	VOTERS PER POLLING PLACE		VOTERS PER WORKER		VOTERS PER MACHINE	
	(1)	(2)	(3)	(4)	(5)	(6)
Change in Percent Non-Hispanic White	-1,096.394***		-78.200**		- 50.202	
	(245.787)		(33.658)		(112.2)	
Change in Median Income		-372.753***		- 51.640***		- 64.489**
		(53.855)		(6.839)		(30.738)
Percent White	134.690***	91.466**	36.985***	33.454***	94.871***	93.262***
	(40.09)	(39.454)	(5.538)	(5.38)	(21.77)	(21.342)
Election Day Turnout	-37.63	-70.592	12.074	8.072	128.316***	123.324***
	(94.508)	(96.163)	(12.612)	(12.696)	(44.933)	(45.011)
Median Age	-13.151***	-13.530***	-1.847***	-1.832***	-6.481***	-6.452***
	(1.207)	(1.217)	(0.165)	(0.163)	(0.707)	(0.702)
Population (10,000s)	0.512**	0.463*	0.051***	0.042***	0.113	0.096
	(0.248)	(0.245)	(0.018)	(0.016)	(0.087)	(0.086)
Population Change (percent)	201.535**	277.607***	39.095***	44.494***	101.198**	106.857**
	(83.246)	(81.813)	(11.609)	(11.575)	(43.113)	(42.54)
Median Income	0.010***	0.011***	0.001***	0.001***	0.003***	0.003***
	(0.001)	(0.001)	(0.0001)	(0.0001)	(0.0003)	(0.0003)
Population Density	0.013***	0.013***	-0.001***	-0.001***	-0.0001	-0.00005
	(0.003)	(0.004)	(0.0002)	(0.0002)	(0.001)	(0.001)
Constant	639.722***	680.204***	107.393***	106.599***	194.285***	191.596***
	(67.577)	(65.924)	(8.677)	(8.33)	(36.962)	(35.639)
State Fixed Effects	х	х	х	х	х	х
DRE Machine Type Fixed Effects	х	х	x	х	х	х
Observations	2,594	2,594	2,428	2,428	2,588	2,588
R ²	0.561	0.565	0.475	0.487	0.569	0.57
Adjusted R ²	0.552	0.556	0.464	0.476	0.56	0.561

*p <.1 **p <.05 ***p <.01

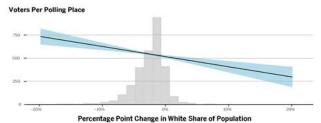
FIGURE 7

Marginal E ect of Change in Incomes and Voters Per Polling Place

Note: Distribution of change in income shown at bottom.

FIGURE 8

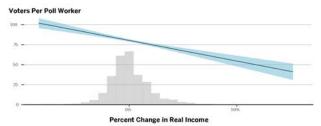
Marginal Effect of Change in White Share of Population and Voters Per Polling Place



Note: Distribution of change in percent white shown at bottom.

FIGURE 9

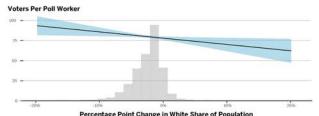
Marginal Effect of Change in Incomes and Voters Per Poll Worker



Note: Distribution of change in income shown at bottom.

FIGURE 10

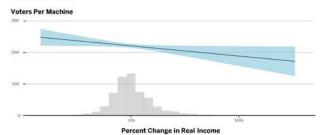
Marginal Effect of Change in White Share of Population and Voters Per Poll Worker



Note: Distribution of change in percent white shown at bottom.

FIGURE 11

Marginal E ect of Change in Incomes and Voters Per Machine



Note: Distribution of change in income shown at bottom.

Endnotes

- 1 Jens Manuel Krogstand, Luis Noe-Bustamante, and Antonio Flores, 'Historic Highs in 2018 Voter Turnout Extended Across Racial and Ethnic Groups,' Pew Research Center, May 1, 2019, https://www.pewresearch.org/fact-tank/2019/05/01/historic-highs-in-2018-voter-turnout-extended-across-racial-and-ethnic-groups; Emily Stewart, '2018's Record-Setting Voter Turnout, in One Chart,' Vox, November 19, 2019, https://www.vox.com/policy-and-politics/2018/11/9/18/1031/02/018-midterm-elections-turnout; Ella Nilsen, "The 2018 Midterms Had the Highest Turnout Since Before World War I," Vox, December 10, 2018, https://www.vox.com/policy-and-politics/2018/11/9/18/1031/03/018-midterm-elections-turnout; Ella Nilsen, "The 2018 Midterms Had the Highest Turnout Since Before World War I," Vox, December 10, 2018, https://www.vox.com/policy-and-politics/2018/12/10/18/13/0492/2018-voter-turnout-political-engagement-trump; Jordan Misra, "Voter Turnout Rates Among All Voting Age and Major Racial and Ethnic Groups Were Higher Than in 2014," U.S. Census Bureau, April 23, 2019, https://www.census.gov/library/stories/2019/04/Dehind-2018-united-states-midterm-election-turnout html; Grace Sparks, There Was Historic Voter Turnout in the 2018 Midterms Especially Among Young Voters; CNN, April 23, 2019, https://www.cnn.com/2019/04/23/politics/voter-turnout-2018-census/index.html; and Renae Reints, "2018 Midterm Election Sets Record as the First to Exceed Voter Turnout of On Million People;" Fortune, November 7, 2018, https://fortune.com/2018/11/07/voter-turnout-2018-ind-engas
- 2 Rebecca Ayala, "Voting Problems 2018," Brennan Center for Justice, November 5, 2018, https://www.brennancenter.org/
 our-work/Analysis-opinion/voting-problems-2018," Election Day 2018: A Brennan Center Live Blog; Brennan Center for Justice, November 6, 2018, https://www.brennancenter.org/our-work/
 analysis-opinion/election-day-2018-brennan-center-live-blog; Amy Gardner and Beth Reinhard, "Broken Machines, Rejected Ballots and Long Lines: Voting Problems Emerge as Americans 60 to the Polls;" Washington Post, November 6, 2018, https://www.washingtonpost.com/politics/broken-machines-rejected-ballots-and-lone-lines-voting-problems-emerge-as-americans-go-to-the-polls/2018/11/06/fd11e52-dfa8-11e8-b310-62607289efee-story.html; and Erik Ortiz et al., "Midterms 2018: Voters Face Malfunctioning Machines and Long Lines at Polls Across Country on Election Day," NBC News, November 6, 2018, https://www.nbcnews.com/politics/elections/midterms-2018-voters-face-malfunctioning-machines-long-lines-polls-across-n932156.
- 3 This statistic is calculated by multiplying the share of Election Day voters who waited longer than 30 minutes by the share of all voters who cast a ballot on Election Day, using data from the Cooperative Congressional Election Study (CCES). Brian Schaffner, Stephen Ansolabehere, and Sam Luks, CCES Common Content, 2018, Harvard Datawers, 2019, https://doi.org/10.7910/PVN/
 ZSBZ7K. This determines the total share of the electorate that waited 30 minutes or longer on Election Day, according to the CCES. This share is multiplied by the total number of ballots cast, estimated by the United States Elections Project. "2018 November General Election Turnour Rates," last modified December, 14, 2018, http://www.electproject.org/2018e.
- 4 Matthew Weil et al., The 2018 Voting Experience: Polling Place Lines. Bipartisan Policy Center, 2019. 6, https://bipartisanpolicy.org/report/the-2018-voting-experience.
- 5 Weil et al., The 2018 Voting Experience, 3-4.
- 6 Election administrators in the following counties and states were interviewed for this report: Shelby County, Alabama; Maricopa County, Airopan; Forsyth County, Georgia; Fulton County, Georgia; Gwinnett County, Georgia; Peoria County, Illinois; Prince George's County, Maryland; Detroit, Michigan; Macomb County, Michigan; Jackson County, Missouri; Clark County, Nevada; Washoe County, Nevada; State of New York; Durham County, North Carolina; Forsyth County, North Carolina; Guilford County, North Carolina; Butter County, Chio; Hicking County, Ohio; Franklin County, Ohio; Licking County, Ohio; Marion

- County, Ohio: State of Rhode Island: Charleston County, South Carolina; State of South Carolina; Davidson County, Tennessee; Denton County, Texas; Fort Bend County, Texas; Harris County, Texas; Hays County, Texas; Tarrant County, Texas; Travis County, Texas; Williamson County, Texas; and Manassas County, Virginia, All interview transcripts are on file with the Brennan Center.
- 7 This report incorporates data from three sources: the Cooperative Congressional Election Study, the Election Administration and Voting Survey, and the five-year American Community Survey. See Schaffner, Ansolabehere, and Luks, CCES Common Content: U.S. Election Assistance Commission, Election Administration and Voting Survey: 2018 Comprehensive Report, 2019, https://www.eac.gov/sites/default/files/eac_assets/1/6/2018_EAVS_Report pdf; and Census Bureau, "American Community Survey 5-Year Data (2009–2018), 'December 19, 2019, https://www.census.gov/data/developers/data-set/s/acs_Syear.html.
- 8 For instance, Michael Herron and Daniel Smith, "Precinct Resources and Voter Wait Times," Electoral Studies 42 (June 2016): 249, https://www.researchgate.net/publication/299503594_ Precinct_resources_and_voter_wait_times.
- 9 Throughout this report, "white" corresponds to the census designation "non-Hispanic white." Following the CCES, we use it as a category exclusive of Latinos. "Voters of color" refers specifically to Black and Latino voters.
- 10 Brennan Center for Justice, "Bipartisan Presidential Commission Endorses Modernizing Voter Registration," December 1, 2014, https://www.brennancenter.org/our-wock/research-reports/ bipartisan-presidential-commission-endorses-modernizing-voter.
- 11 We define "resources" throughout this report as the number of in-person Election Day votes per Election Day polling place, poll workers, and machines available.
- 12 These differences are significant at the 95 percent confidence level.
- 13 For turnout in 2014, see David Becker, "2014 Midterms Defined by Low Voter Turnout," Pew Research Center, 2014, https://www.pewtrusts.org/en/research-and-analysis/articles/2014/1/13/2014-midterms-defined-by-low-voter-turnout, For turnout in 2018, see Krogstand, Noe-Bustamante, and Flores, "Historic Highs in 2018 Voter Turnout."
- 14 See "Inadequate Planning Practices" on pp. 11–12
- 15 Susan Milligan, "Preparing for a Voter Surge," US News & World Report, September 20, 2019, https://www.usnews.com/news/elections/articles/2019-09-20/experts-predict-huge-turn-parts-in-2020/
- 16 Calculated from responses to Schaffner, Ansolabehere, and Luks, CCES Common Content.
- 17 The CCES also has a preelection wave in even years and a much smaller sample in odd years.
- 18 Charles Stewart III and Stephen Ansolabehere, Waiting in Line to Vote, U.S. Election Assistance Commission, July 18, 2013, https://www.eac.gov/documents/2017/02/24/waiting-in-line-to-vote-white-paper-stewart-ansolabehere; Charles Stewart III, Managing Polling Place Resources, Caltech/MIT Voting Technology Project, 2015, http://web.mit.edu/vtp://Managing%20/Polling%20/Place%20/Resources.pdf; and Stephen Pettigrew, "The Racial Gap in Wait Times: Why Minority Precincts Are Underserved by Local Election Officials," Political Science Quarterly 132, 3 (2017): 528.
- 19 U.S. Election Assistance Commission, Election Administration and Voting Survey: 2018.
- 20 To test whether counties were inequitable in distributing resources within their jurisdictions, we analyzed precinct-level data from counties around the country. We focused in particular on

- counties where reports of racial disparities were loudest. We found that counties did not allocate fewer resources to polling places in low-income or minority neighborhoods; in fact, in the counties where we found disparities, polling places in higher-income and whiter neighborhoods tended to have the fewest resources.
- 21 These include every county in Oregon, Washington, and Colorado, most counties in Utah and North Dakota, and a number of counties in California and Nebraska. Although some voters in states like Colorado vote in person on Election Day, the experience of an in-person voter in a primarily vote-by-mail state provides little insight into the relationship between wait times and resources.
- 22 The full set of interviews appears in note 6.
- 23 Throughout this report, we use the vote-verified postelection weights from the CCES.
- 24 This statistic is calculated by multiplying the share of Election Day voters who waited 30 minutes or longer by the share of all voters who cast a ballot on Election Day. This determines the total share of the electorate that waited 30 minutes or longer on Election Day, according to the CCES. This share is multiplied by the total number of ballots cast, estimated by the United States Elections Project. United States Elections Project, "2018 November General Election Turnout Rates."
- 25 For example, for the 2008 and 2012 elections, see Pettigrew, "The Racial Gap in Wait Times," 527–528. For the 2016 election, see M. Keith Chen et al., Racial Disparities in Voting Wait Times: Evidence from Smartphone Data, Cornell University, 2019. 1, https://arxiv.org/ pdf/1909.00024.pdf.
- 26 Christopher Famighetti. Amanda Melillo, and Myrna Pérez. Election Day Long Lines: Resource Allocation, Brennan Center for Justice, 2014. 1-2.12, https://www.brennancenter.org/sites/default/files/2019-08/Report_ElectionDayLongLines-ResourceAllocation.pdf. The Brennan Center also published a brief analysis of long voting lines and their causes in advance of the 2016 presidential election. The analysis focused on Maricopa County, Arizona. Christopher Famighetti. Long Voting Lines: Explained. Brennan Center for Justice, 2016. 1-2, https://www.brennancenter.org/sites/default/files/analysis/Long. Voting. Lines. Explained df.
- 27 For example, for the 2008 and 2012 elections, see Pettigrew, "The Racial Gap in Wait Times," 527–547.
- 28 For example, Weil et al., The 2018 Voting Experience, 4. Also, Chen et al., Racial Disparities in Voting Wait Times, 3–10.
- 29 Stephen Pettigrew, "Long Lines and Voter Purges: The Logistics of Running Elections in America" (PhD diss., Harvard University. 2017). https://dash.harvard.edu/bitstream/handle/1/40046499/PETTIGREW-DISSERTATION-2017pdf?sequence=4.
- 30 David Kimball, "Why Are Voting Lines Longer for Urban Voters?" (presented at the Southwestern Social Science Association annual conference, New Orleans, March 29, 2013). Pettigrew, "The Racial Gap in Wait Times"; and Charles Stewart III, "Waiting to Vote in 2012," Journal of Law and Politics, 28 (2012): 439, https://papers.ssm.com/sol3/papers.cfm/abstract_id=2243630.
- 31 Pettigrew, "The Racial Gap in Wait Times," 535.
- 32 Chen et al., Racial Disparities in Voting Wait Times, 24-27.
- 33 Famighetti, Melillo, and Pérez, Election Day Long Lines, 1.
- 34 For instance, Famighetti, Melillo, and Pérez, Election Day Long Lines, 1–20; also, Herron and Smith, "Precinct Resources," 249.
- 35 For example, Weil et al., The 2018 Voting Experience. Also, Chen et al., Racial Disparities in Voting Wait Times, 1–18.
- 36 Sarah Diem et al., "Racial Diversity in the Suburbs; How Race-Neutral Responses to Demographic Change Perpetuate Inequity in Suburban School Districts," *Race Ethnicity and Education* 19, 4 (2014), 731–762. https://www.tandfonline.com/doi/full/10.108/0/13613324.2014.946485?scroll-stop&needAccess=true; Ning Hsieh and Matt Ruther, "Despite Increased Insurance Coverage, Norwhite Sexual Minorities Still Experience Disparities in Access to

- Care. *Health Affairs 36, 10 (2017). https://www.healthaffairs.orgs/doi/full/10.1377/hithaff_2017_0455; and Altaf Saadi et al., *Racial Dispartiles in Neurologic Health Care Access and Utilization in the United States, *Neurology 88, 24 (June 13, 2017): 2272–2273, https://neurology.org/content/88/24/2268 short.
- 37 Ivy Morgan and Ary Amerikaner, Funding Gaps 2018, Education Trust, February 2018, https://edtrust.org/wp-content/uploads/2014/09/FundingGapReport_2018_FINAL.pdf.
- 38 George Washington University, Public Health Online, "What's the Difference Between Equity and Equality?" April 5, 2018, https://publichealthonline.gwu.edu/blog/equity-vs-equality.
- 39 Only a handful of jurisdictions whose administrators we interviewed provided language assistance even though they were not legally required to do so. For example, election administrator, New York, interview by Brennan Center for Justice, November 13, 2019: election administrator, Forsyth County, North Carolina, interview by Brennan Center for Justice, October 22, 2019; and election administrator, Washoe County, Nevada, interview by Brennan Center for Justice, October 15, 2019.
- 40 Chris Fuchs, "Federal Law Allows Nearly Anyone to Translate for Voters. At Polls, it Can Be a Different Story," NBC News, December 19, 2018, https://www.nbcnews.com/news/asian-america-federal-law-allows-nearly-anyone-translate-voters-polls-it-can-n949056.
- 41 Voting Rights Act of 1965, 52 U.S.C. § 10503 (1965); U.S. Census Bureau, "How the Law Prescribes the Determination of Covered Areas under the Language Minority Provisions of Section 203 of the Voting Rights Act," accessed January 21, 2020, https://www/c.census.gov/programs-surveys/decennial/rdo/about/voting-rights-determination/2_PrescribedFlowFor203Determinations.pdf.
- 4.2 The jurisdictions covered under VRA Section 203 whose election officials were interviewed for this report are Maricopa County, Arizona: Clark County, Nevada; Gwinnett County, Georgia; Williamson County, Texas; Hays County, Texas; Tarrant County, Texas; Fort Bend County, Texas; Harris County, Texas; and Denton County, Texas. U.S. Census Bureau, "Section 203 of the Voting Rights Act: Covered Areas for Voting Rights Billingual Election Materials," accessed March 2, 2020, https://www.census.gov/content/dam/Census/newsroom/press-kits/2017/esri/esri_ue2017_voting rights act.pdf.
- 43 In the months leading up to the 2018 election, the American Civil Liberties Union (ACLU) determined that 36 county websites in Texas lacked sufficient Spanish-language resources and sent notice letters to county officials. Many counties responded positively and took steps to ensure that their websites were accessible to Spanish speakers. ACLU of Texas, "ACLU of Texas," Puts Counties on Notice for Possible Violations of Voting Rights Act," September 24, 2018, https://www.aclutx.org/en/press-releases/aclu-texas-puts-counties-notice-possible-violations-voting-rights-act.
- 44 Election administrator, Clark County, Nevada, interview by Brennan Center for Justice, October 21, 2019; election administrator, Prince George's County, Maryland, interview by Brennan Center for Justice, October 24, 2019; election administrator, Tarrant County, Texas, interview by Brennan Center for Justice, November 13, 2019; election administrator, Travis County, Texas, interview by Brennan Center for Justice, November 22, 2019; and election administrator, Williamson County, Texas, interview by Brennan Center for Justice, October 16, 2019.
- 45 One study estimated that nearly 6 million voters with limited English proficiency would fail to receive federal language accommodations during the 2018 midtern election. Richard Salme, "Vote Aqui? Limited-English-Proficiency Voters Could Help Determine Congress," The Nation, November 5, 2018, https://www.thenation.com/article/limited-english-voters-investigation-election.
- 46 Election administrator, Butler County, Ohio, interview by Brennan Center for Justice, October 29, 2019; election administrators, Licking County, Ohio, interview by Brennan Center for Justice November 12, 2019; election administrators, Marion County, Ohio,

interview by Brennan Center for Justice, November 15, 2019: election administrator, Charleston County, South Carolina, interview by Brennan Center for Justice, October 14, 2019: election administrator, Davidson County, Tennessee, interview by Brennan Center for Justice, November 4, 2019: election administrator, Fulton County, Georgia, interview by Brennan Center for Justice, November 18, 2019: election administrator, Juntam County, North Carolina, interview by Brennan Center for Justice, November 18, 2019: election administrators, Jackson County, Missouri, interview by Brennan Center for Justice, October 16, 2019: election administrators, Jackson County, Missouri, interview by Brennan Center for Justice, October 16, 2019: election administrator, Porior is County, Missouri, interview by Brennan Center for Justice, October 29, 2019: election administrators, Belbelly County, Alabama, interview by Brennan Center for Justice, November 15, 2019; and election administrator, Manassas County, Virginia, interview by Brennan Center for Justice, October 28, 2019.

- 47 U.S. Census Bureau, "QuickFacts: Manassas City, Virginia (County)," accessed January 21, 2020, https://www.census.gov.guickfacts/fact/table/manassascityvirginiacounty/PST120218
- 48 Similarly, Peoria County, Illinois, has experienced demographic shifts since 2010. The county's white population has decreased and its Hispanic and Asian populations have both increased over the past decade. The county does not fall under the federal mandate, and election officials do not proactively recruit poll workers with translation skills or provide ballots in languages other than English. Election administrator, Peoria County, Illinois, interview by Brennan Center for Justice, October 29, 2019; and U.S. Census Bureau, "QuickFacts: Peoria County, Illinois," accessed January 21, 2020, https://www.census.gov/quickfacts/peoriacountyillinois.
- 49 Weil et al., *The 2018 Voting Experience*, 15–24; Herron and Smith, *Precinct Resources*, 253–262; William A. Edelstein and Arthur D. Edelstein, "Touchscreen Voting Machines Cause Long Lines and Disenfranchise Voters" (arXiv preprint arXiv:0810.5577, Cornell University, 2008), 1–5.
- 50 See, for instance, Herron and Smith, Precinct Resources, 249–252.
- 51 Counties that look to funding when allocating resources election administrators, Maricopa County, Arizona, interview by Brennan Center for Justice, November 22, 2019; election administra-tor, Forsyth County, Georgia, interview by Brennan Center for Justice, October 31, 2019; election administrator, Fulton County, Georgia. interview by Brennan Center for Justice, October 24, 2019; election administrator, Peoria County, Illinois, interview by Brennan Center for Justice, October 29, 2019; election administrator, Prince George's County, Maryland, interview by Brennan Center for Justice, October 24, 2019; election administrator, Detroit, Michigan, interview by Brennan Center for Justice, December 6, 2019; election administrator, Detroit, Michigan, Interview by Brennan Center for Justice, December 6, 2019; election administrator, Macomb County, Michigan, interview by Brennan Center for Justice, October 21, 2019: election administrators, Jackson County, Missouri, interview by Brennan Center for Justice, October 16, 2019. election administrator, Clark County, Nevada, interview by Brennan Center for Justice, October 21, 2019; election administrator, Washoe County, Nevada, interview by Brennan Center for Justice, October 15 2019; election administrator, New York, interview by Brennan Center for Justice, November 13, 2019; election administrator, Durham County, North Carolina, interview by Brennan Center for Justice November 18, 2019; election administrator, Forsyth County, North Carolina, interview by Brennan Center for Justice, October 22, 2019; election administrator, Guilford County, North Carolina, interview by Brennan Center for Justice, October 18, 2019; election administrator, Butler County, Ohio, interview by Brennan Center for Justice, October 29, 2019; election administrator, Franklin County, Ohio, interview by Brennan Center for Justice, November 13, 2019; election administra tors, Licking County, Ohio, interview by Brennan Center for Justice, November 12, 2019; election administrators, Marion County, Ohio, interview by Brennan Center for Justice, November 15, 2019; election administrators, Rhode Island, interview by Brennan Center for Justice, October 23, 2019; election administrator, Charleston County, South Carolina, interview by Brennan Center for Justice, October 14,

2019; election administrator, South Carolina, interview by Brennan Center for Justice, November 12, 2019; election administrator, Denton County, Texas, interview by Brennan Center for Justice, November 19, 2019; election administrator, Fort Bend County, Texas, interview by Brennan Center for Justice, November 12, 2019; election administrator, Harris County, Texas, interview by Brennan Center for Justice, November 14, 2019; election administrator, Hays County, Texas, interview by Brennan Center for Justice, October 29, 2019: election administrator. Tarrant County, Texas, interview by Brennan Center for Justice, November 13, 2019; election administrator, Travis County, Texas, interview by Brennan Center for Justice, November 22, 2019; election administrator, Williamson County, Texas, interview by Brennan Center for Justice, October 16, 2019; and election administrator, Manassas City, Virginia, interview by Brennan Center for Justice, October 28, 2019. Counties that look to statutory require-ments and guidelines when allocating resources: election administrators, Maricopa County, Arizona, interview by Brennan Center for Justice, November 22, 2019; election administrator, Forsyth County Georgia, interview by Brennan Center for Justice, October 31, 2019; election administrator, Fulton County, Georgia, interview by Brennan Center for Justice, October 24, 2019; election administrator, Gwinnett County, Georgia, email to Brennan Center for Justice October 25, 2019; election administrator, Peoria County, Illinois interview by Brennan Center for Justice, October 29, 2019; election administrator, Prince George's County, Maryland, interview by Brennan Center for Justice, October 24, 2019; election administrator, Detroit, Michigan, interview by Brennan Center for Justice, December 6, 2019; election administrator, Macomb County, Michigan, interview by Brennan Center for Justice, October 21, 2019; election administrators. tor, Clark County, Nevada, interview by Brennan Center for Justice, October 21, 2019; election administrator, Washoe County, Nevada, interview by Brennan Center for Justice, October 15, 2019; election administrator, New York, interview by Brennan Center for Justice, November 13, 2019; election administrator, Durham County, North Carolina, interview by Brennan Center for Justice, November 18, 2019; election administrator, Forsyth County, North Carolina, interview by Brennan Center for Justice, October 22, 2019; election administrator, Guilford County, North Carolina, interview by Brennan Center for Justice, October 18, 2019; election administrator, Butler County, Ohio, interview by Brennan Center for Justice, October 29, 2019; election administrator, Franklin County, Ohio, interview by Brennan Center for Justice. November 13, 2019: election administra tors, Licking County, Ohio, interview by Brennan Center for Justice November 12, 2019; election administrators, Marion County, Ohio, interview by Brennan Center for Justice, November 15, 2019; election administrators, Rhode Island, interview by Brennan Center for Justice, October 23, 2019; election administrator, Charleston County, South Carolina, interview by Brennan Center for Justice, October 14 2019: election administrator, South Carolina, interview by Brennan Center for Justice, November 12, 2019; election administrator, Davidson County, Tennessee, interview by Brennan Center for Justice, November 4, 2019: election administrator, Denton County, Texas, interview by Brennan Center for Justice, November 19, 2019: election administrator, Hays County, Texas, interview by Brennan Center for Justice, October 29, 2019; election administrator,
Williamson County, Texas, interview by Brennan Center for Justice,
October 16, 2019; and election administrator, Manassas City, Virginia, interview by Brennan Center for Justice, October 28, 2019. Counties that look to the quality of available resources when allocating resources: election administrators, Maricopa County, Arizona interview by Brennan Center for Justice, November 22, 2019; election administrator, Forsyth County, Georgia, interview by Brennan Center for Justice, October 31, 2019; election administrator, Fulton County, Georgia, interview by Brennan Center for Justice, October 24, 2019; election administrator, Peoria County, Illinois, interview by Brennan Center for Justice, October 29, 2019; election administrator, Macomb County, Michigan, interview by Brennan Center for Justice, October 21, 2019; election administrators, Jackson County, Missouri, interview by Brennan Center for Justice, October 16, 2019; election administrator, Clark County, Nevada, interview by Brennan Center for

Justice, October 21, 2019; election administrator, Washoe County, Nevada, interview by Brennan Center for Justice, October 15, 2019; election administrator, New York, interview by Brennan Center for Justice, November 13, 2019; election administrator, Durham County North Carolina, interview by Brennan Center for Justice, November 18, 2019; election administrator, Forsyth County, North Carolina, interview by Brennan Center for Justice, October 22, 2019; election administrator, Guilford County, North Carolina, interview by Brennan Center for Justice, October 18, 2019; election administrator, Butler County, Ohio, interview by Brennan Center for Justice, October 29, 2019: election administrator, Franklin County, Ohio, interview by Brennan Center for Justice, November 13, 2019; election administrators, Licking County, Ohio, interview by Brennan Center for Justice, November 12, 2019; election administrators, Rhode Island, interview by Brennan Center for Justice, October 23, 2019; election administra tor, Charleston County, South Carolina, interview by Brennan Center for Justice. October 14, 2019: election administrator. South Carolina interview by Brennan Center for Justice, November 12, 2019; election administrator, Davidson County, Tennessee, interview by Brennan Center for Justice, November 4, 2019; election administrator, Denton County, Texas, interview by Brennan Center for Justice, November 19, 2019; election administrator, Fort Bend County, Texas, interview by Brennan Center for Justice, November 12, 2019; election administrator, Harris County, Texas, interview by Brennan Center for Justice, November 14, 2019; election administrator, Hays County, Texas, interview by Brennan Center for Justice, October 29, 2019; election administrator, Tarrant County, Texas, interview by Brennan Center for Justice, November 13, 2019; election administrator, Travis County, Texas, interview by Brennan Center for Justice, November 22, 2019; election administrator, Williamson County, Texas, interview by Brennan Center for Justice, October 16, 2019; and election adminis trator, Manassas City, Virginia, interview by Brennan Center for Justice, October 28, 2019. Counties that look to unique community needs, such as voting trends and demographic shifts, when allocating resources: election administrators, Maricopa County, Arizona, interview by Brennan Center for Justice, November 22, 2019. election administrator, Forsyth County, Georgia, interview by Brennan Center for Justice, October 31, 2019; election administrator, Fulton County, Georgia, interview by Brennan Center for Justice, October 24, 2019; election administrator, Peoria County, Illinois, interview by Brennan Center for Justice, October 29, 2019; election administrator, Prince George's County, Maryland, Interview by Brennan Center for Justice, October 24, 2019; election administrator, Macomb County, Michigan, Interview by Brennan Center for Justice, October 21, 2019: election administrators, Jackson County, Missouri, interview by Brennan Center for Justice, October 16, 2019; election administrator, Clark County, Nevada, interview by Brennan Center for Justice, October 21, 2019; election administrator, Washoe County, Nevada, interview by Brennan Center for Justice, October 15, 2019; election administrator, New York, interview by Brennan Center for Justice, November 13, 2019: election administrator, Durham County North Carolina, interview by Brennan Center for Justice, November 18, 2019; election administrator, Forsyth County, North Carolina, interview by Brennan Center for Justice, October 22, 2019; election administrator, Guilford County, North Carolina, interview by Brennan Center for Justice, October 18, 2019; election administrator, Butler County, Ohio, interview by Brennan Center for Justice, October 29, 2019; election administrator, Franklin County, Ohio, interview by Brennan Center for Justice, November 13, 2019; election administrators, Licking County, Ohio, interview by Brennan Center for Justice, November 12, 2019: election administrators, Rhode Island, interview by Brennan Center for Justice, October 23, 2019; election administrator, Charleston County, South Carolina, interview by Brennan Center for Justice, October 14, 2019; election administrator, South Carolina, interview by Brennan Center for Justice, November 12, 2019; election administrator, Davidson County, Tennessee, interview by Brennan Center for Justice, November 4, 2019; election administrator, Denton County, Texas, interview by Brennan Center for Justice, November 19, 2019; election administrator, Fort Bend County, Texas, interview by Brennan Center for Justice. November 12, 2019: election administra

tor, Harris County, Texas, interview by Brennan Center for Justice, November 14, 2019; election administrator, Hays County, Texas, interview by Brennan Center for Justice, October 29, 2019; election administrator, Tarrant County, Texas, interview by Brennan Center for Justice, November 13, 2019; election administrator, Tavis County, Texas, interview by Brennan Center for Justice, November 22, 2019; election administrator, Williamson County, Texas, interview by Brennan Center for Justice, October 16, 2019; and election administrator, Williamson County, Texas, interview by Brennan Center for Justice, October 16, 2019; and election administrator, Williamson County, Texas, interview by Brennan Center for Justice, October 28, 2019.

- 52 According to our analysis of the EAVS data
- 53 The relationship between these demographic changes and the resource levels of counties are statistically significant in each case except for the change in white population relative to number of votes cast per machine. (The full regression tables can be found in the appendix.)
- 54 In an ideal world, we would be able to construct a panel data set that examined how resources and demographics change together. However, the EAVS prevents us from doing so: in years prior to 2018, too few jurisdictions consistently reported their resource levels to the EAVS. Given this, we interrogate the relationship between demographic change over a 10-year period and resource levels at the end of the period. We are therefore unable to say whether resources decline as populations change, but rather only that there were fewer resources at the end of the period in those places where incomes or white shares declined the most.
- 55 These differences are significant at the 95 percent confidence level.
- 56 These differences are significant at the 95 percent confidence level.
- 57 E.g., Jacob Rugh and Jessica Trounstine, "The Provision of Local Public Goods in Diverse Communities: Analyzing Municipal Bond Elections," Journal of Politics 73, 4 (2011), https://www.doi.org/10.1017/S0022381611000776; James Habyarimana et al., "Why Does Ethnic Diversity Undermine Public Goods Provision?" *American Political Science Review 8, 4 (2007), https://doi.org/10.1017/S0003055407070499; and Erzo Luttmer, "Group Loyalty and the Taste for Redistribution", Journal of Political Economy 109, 3 (2001), https://doi.org/10.1086/321019.
- 58 Daniel J. Hopkins, "The Diversity Discount: When Increasing Ethnic and Racial Diversity Prevents Tax Increases," *Journal of Politics* 71,1 (2006), https://doi.org/10.1017/S0022381608090105.
- 59 Ala. Code § 17-6-4; Ark. Code Ann. § 7-5-101 (West); Cal. Elec. Code § 12-23 (West); Colo. Rev. Stat. Ann. § 1-5-101 (West); Del. Code Ann. Iti. 15, § 4105 (West); Cal. Code Ann. § 12-2-263 (West); Idaho Code Ann. § 3-13-15-5 (West); Io III. Comp. Stat. Ann. 5-/11-2; Ind. Code Ann. § 3-13-15-3 (West); Io III. Comp. Stat. Ann. 5-/11-2; Ind. Code Ann. § 3-29-03 (West); Nev. Rev. Stat. Ann. § 293-207 (West); N. J. Stat. Ann. § 32-9-12 (West); N. J. Stat. Ann. § 19-4-12 (West); Nh. Stat. Ann. § 19-3-12 (West); Nh. Stat. Ann. § 19-3-12 (West); Nh. Stat. Ann. § 205 (West); Nb. Stat. Ann. § 206 (West); 25 Pa. Stat. Ann. § 2702 (West); TR. I. Gen. Laws Ann. § 17-11 (West); Cb. Code Ann. § 77-730; Utah Code Ann. § 20A-5-303 (West); Wash. Rev. Code Ann. § 3-9A. I.6.040 (West); W. Va. Code Ann. § 3-4A-30 (West); and Wis. Stat. Ann. § 515 (West).
- 60 Ala, Code § 17-6-3; Del, Code Ann, It. 15, § 5004A (West); Ga. Code Ann, § 21-2-323 (West); 10 III. Comp. Stat. Ann, 5/24-1; La. Stat. Ann, § 18:1363; Me. Rev. Stat. Iti, 21-A, § 811; Mich. Comp. Laws Ann, § 168-461 (West); Miss. Code. Ann, § 23-15-531.6 (West); N. C. Gen. Stat. Ann, § 163-42; NY. Elec. Law App 620.10 (McKinney); 25 Pa. Stat. Ann, § 2730 (West); S. C. Code Ann, § 7-13-1680; Tenn. Code Ann. § 2-3-104 (West); No. Code Ann. § 24-2-115 (West); and W. Va. Code Ann. § 3-4A-10a (West).
- 61 "The County Board in each county, except in counties having a population of 3,000,000 inhabitants or over, shall, at its regular meeting in June, divide its election precincts which contain more than 800 voters, into election districts so that each district shall

contain, as near as may be practicable, 500 voters, and not more in any case than 800."10 Ill, Comp. Stat. Ann. 5/11-2; 10. "A voting machine or machines sufficient in number to provide a machine for each 400 voters or fraction thereof shall be supplied for use at all elections," 10 Ill. Comp. Stat. Ann. 5/24.

- 62 "When the voter registration in a precinct using voting machines exceeds 2,999, the precinct shall be divided or rearranged When the voter registration in a precinct using voting machines is 1,000 or less, there shall be not less than 1 voting machine for each 500 active registered electors." And "when the voter registration in a precinct using voting machines is more than 1,000 and less than 3,000, there shall be at least 1 voting machine for each 600 active registered electors." Mich. Comp. Laws Ann. § 168.661 (West).
- 63 "The governing body of any county or municipality providing voting machines at polling places for use at elections shall provide for each polling place at least one voting machine for each two hundred fifty registered voters or portion thereof or as near thereto as may be practicable. The machines shall be of the type approved as provided for in this title and shall be kept in complete and accurate working order and in proper repair. The machines may be used in such election districts or precincins in the county or municipality as the officials holding the election or conducting the primary may determine. The governing body of the county or municipality owning the machines shall have custody of such machines and other furniture or equipment of the polling places when not in use at an election." S.C. Code Ann. § 7:13-1680.
- 64 "In each precinct in which voting machines are used, the municipal governing authority shall provide at least one voting machine for each 500 electors, or major fraction thereof, except that at least one voting machine shall be provided in each such precinct in any case." Ga. Code Ann. § 21-2-323 (West). Georgia plans to adopt new voting machines for the 2020 election, and Georgia law now requires that "[J]n each precinct in which optical scanning voting systems are used, the county or municipal governing authority, as appropriate, shall provide at least one voting booth or enclosure for each 250 electors therein, or fraction thereof." Ga. Code Ann. § 21-2-367(b) (West). In addition, Georgia has proposed a new rule that "when calculating the number of voting booths or enclosures required to be available to electors of a precinct or Slection Day and on the last day of advance voting." Ga. Comp. R. & Regs. 183-1-14.01. "Brennan Center Submits Follow-Up Comment to Georgia State Board of Elections on Proposed Election Rules."

 Brennan Center for Justice, accessed March 2, 2020, https://www.brennancenter.org/cur-work/research-reports/brennan-center-submits-follow-comment.georgia-state-board-elections.
- 65 Election administrator, Durham County, North Carolina, interview by Brennan Center for Justice, November 18, 2019: election administrator, Prince George's County, Maryland, Interview by Brennan Center for Justice, October 24, 2019: election administrator, Licking County, Ohio, Interview by Brennan Center for Justice, November 12, 2019.
- 66 For example, Durham County, North Carolina, experienced a major population boom over the past decade, growing by roughly 20 percent. However, election administrators in Durham told the Brennan Center that their resource allocation estimates are based heavily on turnout levels of past elections. Voter turnout in Durham in 2018 grew by more than 10 percent from the previous midterm election in 2014. Individuals in Durham also reported long wait times at some polling places in the county during early and Election Day voting. U.S. Census Bureau, "QuickFacts: Durham County, North Carolina," accessed January 21, 2020, https://www.census.gov/quickfacts/fact/table/durhamcountynorthacolina/PSTO45219; election administrator, Durham County, North Carolina, interview by Brennan Center for Justice, November 18, 2019. Democracy North Carolina, Report: Democracy NC Analyzes 2018 Turnout, Reveals Youth Enthusiasm, Demographic Shifts, 2018, <a href="https://democracync.com/psics/bifts.2018.https://democracync.com/psics/democracync.com/psics/bifts.2018.https://democracync.com/psics/democracync.com/psics/bifts.2018.https://democracync.com/psics/democracync.c

- org./news/2018-turnout-demonstrates-youth-enthusiasm-demographic-shifts; Kirsten Rewritten, Twitter post, November 6, 2018. 9:40 a.m., https://twitter.com/ewriteables/ status/1059817800871694337; and Battle for the Ballot, Twitter post, November 3, 2018. 12:14 p.m., https://twitter.com/BallotBattle/status/1058754374439198720.
- 67 Election administrator, Prince George's County, Maryland, interview by Brennan Center for Justice, October 24, 2019.
- 68 Election administrator, Prince George's County, Maryland, interview by Brennan Center for Justice, October 24, 2019.
- 69 In the 2014 general midterm election, 230,599 ballots were cast in Prince George's County, a turnout rate of 42.34 percent. The turnout rate jumped to 55.75 percent in the 2018 general midterm election. Prince George's County Board of Elections, "Election Summary Report: Gubernatorial General Election," 2014. http://electionresults/2.014/general/Documents/1_DP_summary-1.htm; and Prince George's County Board of Elections, "Summary by Canvass: Gubernatorial General Election," 2018. https://www.princeseorgescountymd.gov/DocumentCenter/View/23819/Official-Summary-2018GG.
- 70 In 2014, roughly 46,236 voters in Prince George's County cast a ballot during the early voting period, compared with 158,912 votes cast during the same period in 2016. In the 2016 presidential election, 198,116 voters cast ballots on Election Day, In 2018, 102,863 votes were cast during the early voting period, and 196,338 were cast on Election Day, Maryland State Board of Elections, "Unofficial Early Voting Turnout: 2014 Gubernatorial General Election," 2014, https://elections.maryland.gov/merss_room/2014_stats/Golf_EarlyVoting_ByCounty.pdf; Maryland State Board of Elections, "2016 Presidential General Election: Total Voter Turnout," 2016, https://elections.maryland.gov/elections/2016/furnout_pdf; and Maryland State Board of Elections, "2018 Gubernatorial General Election." 2018, https://elections.maryland.gov/elec-tions/2018/turnout_pdf; and Maryland State Board of Elections maryland.gov/elections.
- 71 Arelis R. Hernández and Marissa J. Lang. ""Totally Unacceptable: Polling Problems in Maryland Leave Voters Waiting for Hours," Washington Post. November 7, 2018. https://www.washington.post.com/local/md-politics/totally-unacceptable-polling-problems-in-maryland-leave-voters-waiting-for-hours/2018/11/06/d01cad6c-e227-11e8-815-45534748762. story html.
- 72 Victoria Sanchez, "Some Voters Wait in Line for Hours to Cast Ballots in Maryland," WJLA, November 6, 2018, https://wila.com/ news/election/maryland-election-day-long-lines,
- 73 Election administrator, Prince George's County, Maryland, interview by Brennan Center for Justice, October 24, 2019.
- 74 The Senate bill is codified as N.C. Gen. Stat. Ann. § 163-227.6.
- 75 Election administrator, Forsyth County, North Carolina, interview by Brennan Center for Justice, October 22, 2019.
- 76 Alexa Ura, "Texas Ended Temporary Voting Locations to Curb Abuse. Now Rural and Young Voters Are Losing Access," Texas Tribune, October 10, 2019, https://www.texastribune.org/2019/10/10/texas-temporary-voting-access-young-rural-voters.
- 77 Election administrator, Travis County, Texas, interview by Brennan Center for Justice, November 22, 2019.
- 78 The following county officials expressed concerns about adequate resources during early voting: election administrator, Butler County, Ohio, interview by Brennan Center for Justice, October 29, 2019; election administrator, Fort Bend County, Texas, interview by Brennan Center for Justice, November 12, 2019; election administrator, Guilford County, North Carolina, interview by Brennan Center for Justice, October 18, 2019; election administrators, Harris County, Texas, interview by Brennan Center for Justice, November 14, 2019; and election administrator, Williamson County, Texas, interview by Brennan Center for Justice, October 16, 2019.
- 79 Election administrator, Butler County, Ohio, interview by Brennan Center for Justice, October 29, 2019; election administrator,

Clark County, Nevada, interview by Brennan Center for Justice October 21, 2019; election administrator, Denton County, Texas, interview by Brennan Center for Justice, November 19, 2019; election administrator, Durham County, North Carolina, interview by Brennan Center for Justice, November 18, 2019; election administrator, Forsyth County, Georgia, interview by Brennan Center for Justice, October 31, 2019; election administrator, Forsyth County, North Carolina interview by Brennan Center for Justice October 22, 2019: election administrator, Fort Bend County, Texas, interview by Brennan Center for Justice, November 12, 2019; election administrator, Guilford County, North Carolina, interview by Brennan Center for Justice, October 18, 2019; election administrator, Gwinnett County, Georgia, email to Brennan Center for Justice, October 25, 2019; election administrators, Harris County, Texas, interview by Brennan Center for Justice, November 14, 2019; election administrator, Hays County, Texas, interview by Brennan Center for Justice, October 29, 2019: election administrators, Jackson County, Missouri, interview by Brennan Center for Justice, October 16, 2019; election administra-tors, Licking County, Ohio, interview by Brennan Center for Justice, November 12, 2019; election administrator, Manassas County, Virginia, interview by Brennan Center for Justice, October 28, 2019; election administrator, Peoria County, Illinois, interview by Brennan Center for Justice, October 29, 2019; election administrator, Prince George's County, Maryland, interview by Brennan Center for Justice, October 24, 2019; election administrator, Tarrant County, Texas, interview by Brennan Center for Justice, November 13, 2019; election administrator, Travis County, Texas, interview by Brennan Center for Justice, November 22, 2019; election administrator, Washoe County, Nevada, interview by Brennan Center for Justice, October 15, 2019; and election administrator, Williamson County, Texas, interview by Brennan Center for Justice, October 16, 2019

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- 114 The EAVS covers the number of polling places for 93 percent of voters, the number of machines for 87 percent of voters, and the number of poll workers for 80 percent of voters.

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APPENDIX B

Did Consolidating Polling Places in Milwaukee Depress Turnout? | Brennan Center for Justice



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Did Consolidating Polling Places in Milwaukee Depress **Turnout?**

Despite a surge of absentee voting, consolidating polling locations in the city of Milwaukee reduced turnout by nearly 9 percentage points, disproportionately affecting Black voters.







The weeks leading up to the Wisconsin primary election on April 7 were tumultuous. On March 27, Democratic Gov. Tony Evers called for every voter in the state to be sent an absentee ballot, but the Republican-controlled legislature rejected the idea. The weekend before the election, Evers called an emergency session of the legislature, hoping to postpone the election; once again, his efforts were stymied. Evers was also blocked in the courts; the day before the election was to take place, he issued an executive order moving it to June 9, but the state supreme court struck it down.

These maneuvers occurred against the backdrop of shortages of electoral resources. On March 31, the Milwaukee Journal Sentinel described a dire poll worker shortage: Wisconsin was short some 7,000 poll workers, a situation that led to the consolidation of polling places around the state. The cuts were particularly drastic in Milwaukee

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City, where the number of polling places dropped from 182 in November 2016, to just five for this year's primary. In the rest of Wisconsin, the number of polling places dropped by 11 percent.

As the nation prepares for the November general election, we wanted to test whether fewer polling places decreased turnout in Milwaukee, or if voters simply shifted to the vote-by-mail alternative. Our answer is no. To be clear, a surge in absentee voting may have offset at least a portion of any depressive turnout effects of consolidated polling places: while just 170,614 ballots were cast by mail in the 2016 presidential primary, 964,443mail ballots were submitted this year. However, despite this surge in absentee voting, we find that

polling place consolidation reduced turnout by 8.6 percentage points, and Black turnout was especially depressed from these closures.

Methodology

In order to estimate what turnout out would have been in Milwaukee City if not for the polling place closures, we used a matching model to pair voters in the city with voters outside the city. \(\frac{1}{2} \) This ensured that the "treated" voters (individuals living in Milwaukee City) and "control" voters (those living outside the city) had similar socioeconomic characteristics and voting histories. Controlling for these characteristics is important, because they are highly correlated with whether someone casts a ballot. For instance, 50 percent of all suburban voters voted in the 2016 primary, while just 27 percent of Milwaukee voters did so. After our matching procedure, 27 percent of the suburban voters who were used as controls cast a ballot in that contest. Without controlling for these characteristics, we might only be picking up on a lower propensity to vote in Milwaukee City — not the effect of the polling place closures.

In addition to the matching methodology, we only kept pairs of treated and control voters who live within a half mile of one another. Although the paired individuals live in different cities, they live so close to one another that they likely shop at the same grocery stores and eat at the same restaurants. In other words, despite living in different cities, they are probably similarly exposed to Covid-19.

We then ran an ordinary least squares regression to see if the voters who live just inside Milwaukee City voted at lower rates than their counterparts just outside the city. We also tested whether turnout was depressed by a different amount for Black voters than other voters in Milwaukee City.

For a fuller discussion of our data, methods, and results, please see our working paper.

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Results				
		TURNOUT		
	MODEL 1	MODEL 2	MODEL 3	MODEL 4
Lives in Milwaukee	-0.086***	-0.087***	-0.085***	-0.085***
	-0.002	-0.002	-0.002	-0.002
Black		-0.038***	-0.025***	-0.030***
		-0.004	-0.006	-0.006
Black × Lives in Milwaukee			-0.017**	-0.016**
			-0.008	-0.008

Constant	0.261***	0.057***	0.263***	0.056***
	-0.001	-0.004	-0.001	-0.001

Includes Other Matched Covariates		x		x
Includes County Fixed Effects	x	x	x	×

Polling place closures did reduce turnout in the 2020 primary election. The table above indicates that turnout in Milwaukee City was depressed by roughly 8.6 percentage points. Considering that 26 percent of our control voters cast a ballot, this implies that polling place closures in the city reduced turnout by a third.

Of particular note, we found that this effect was larger for Black voters. Although polling place consolidation decreased turnout among non-Black voters by around 8.5 percentage points, it reduced turnout among Black voters by 10.2 percentage points.

Looking Ahead

 $The serious depressive effects uncovered in {\tt Milwaukee-and} \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \ within \ them-are \ cause \ for \ and \ the \ racial \ disparities \$ concern. Clearly, not all voters who prefer voting in person will seamlessly transition to vote by mail. We cannot know whether Milwaukee residents cast fewer ballots because they were unfamiliar with the mail voting process $did \ not \ trust \ it, or \ were \ prevented \ from \ voting \ in \ person \ because \ of \ the \ \textbf{long lines}. \ It \ is \ also \ possible \ that \ Black$ voters cast mail ballots at similar rates as other voters but had them rejected at higher rates, thereby reducing

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their effective turnout. However, given the magnitude of the effect, it is unlikely that this accounts for the full difference.

The case of Milwaukee is important for election administrators to keep in mind as they prepare for this fall's election. If it can be generalized to the rest of the country, polling place closures will come at the expense of voter $turnout-and\ particularly\ the\ turnout\ of\ Black\ Americans.\ Moreover,\ a\ recently\ released\ {\bf Brennan}\ {\bf Center\ report}$ shows that fewer polling places lead to longer lines to vote, meaning that widespread closures might make casting a ballot harder for in-person voters. If we care about the representation of nonwhite voters and voters wary of casting mail ballots, we must ensure that there are safe in-person options this fall.

- 1. See https://elections.wi.gov/elections-voting/2016/fall and https://elections.wi.gov/node/6524.
- 2. Potential controls came from Milwaukee, Racine, Ozaukee, Washington, and Waukesha Counties. We matched each treated voter to two control voters based on whether they voted in the 2016 and 2018 primaries; their gender, race, partisan affiliation, and ethnicity; their latitude and longitude; and estimates of their household income and education level. The data all come from L2 Political.
- Our methodology closely follows that of this published paper. Like this analysis, that paper combined a matching model with a geographic restriction around the city border to estimate the effect of ballot initiatives on turnout in Milwaukee City.



Research Note

Voting in a Pandemic: COVID-19 and Primary Turnout in Milwaukee, Wisconsin

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Kevin Morris 10 and Peter Miller 10

Abstract

We report the first study of the effect of the novel coronavirus SARS-CoV-2 (COVID-19) on polling place consolidation and voting behavior. We draw upon individual-level observations from Milwaukee matched to similar observations in the surrounding municipalities to assess whether fewer polling places in the April 2020 presidential primary election decreased turnout in the city. We find polling place consolidation reduced overall turnout by about 8.7 points and reduced turnout among the Black population in the city by about 10 points. We conclude, based on these data, that polling place consolidation even accompanied by widespread absentee voting in the face of an emergency may result in disenfranchisement, particularly among Black voters.

Keywords

COVID-19, polling place consolidation, regression discontinuity in space, voter turnout

The Wisconsin presidential primary election provides a valuable means to assess how the novel coronavirus SARS-CoV-2 (COVID-19) has altered voting behavior in a natural experiment. The weeks leading up to the presidential primary election on April 7 were tumultuous. Democratic Governor Tony

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Evers declared a state of emergency on March 12 when there were eight confirmed COVID-19 cases. On March 17, Evers issued a ban on all gatherings of more than 10 people and on March 27 called for every voter in the state to be sent an absentee ballot (Wise, 2020). The Republican-controlled legislature refused this proposal. The weekend before the election, Evers called an emergency session of the legislature hoping to postpone the date of the election. This effort, too, was rebuffed. As a last resort, Evers issued an executive order on April 6 to delay the primary election until the ninth of June which was overturned by the state supreme court. The day before the primary, the U.S. Supreme Court ruled absentee ballots would be invalid if the ballot was not hand-delivered by April 7 or postmarked by election day and received by April 13.5

These maneuvers occurred against the backdrop of overstretched electoral resources following from the increasing severity of the COVID-19 pandemic. The Milwaukee Journal Sentinel observed the state was short some 7,000 poll workers on March 31 (Marley and Beck, 2020), a shortage which led to polling place consolidation around the state. The reduction in polling places was acute in Milwaukee where just five polling places remained open, compared with 182 in November of 2016.6 Even as polling places were consolidated, a surge in absentee voting occurred: statewide, more than 964,000 ballots were cast by mail in the April primary, compared with just 171,000 in the 2016 presidential primary. Nonetheless, there is evidence for "leaked" absentee ballots that were excluded from the set of counted ballots (Stewart, 2010): Only 84.8% of mail ballots delivered to voters were ultimately counted. Past research indicates that, under normal circumstances, polling place consolidation leads to lower turnout (e.g., Brady and McNulty, 2011; McNulty et al., 2009). The circumstances in Milwaukee, in contrast to these earlier studies, are novel in that consolidation here was a consequence of a natural disaster rather than of an administrative decision to reallocate polling places.

This study asks two questions. First, we investigate whether polling place consolidation measurably decreased overall turnout in the context of a primary election with widespread access to vote-by-mail options. Just 16.1% of registered voters in the City of Milwaukee voted in the April primary, while the overall turnout rate in the rest of Milwaukee County and surrounding Waukesha, Washington, and Ozaukee Counties was 42.2%. Second, we aim to measure whether COVID-19, which was more widespread in the City of Milwaukee, depressed turnout through other mechanisms. The opportunity cost literature indicates that household shocks like family emergencies can make it less likely that voters invest the time and resources needed to learn where their polling place is and who is on the ballot; the concentration of

COVID-19 in the City of Milwaukee may have increased these opportunity costs and depressed turnout.

Prior Literature

Election administration in the United States is defined by two values: decentralized authority and oversight by partisan, elected officials (Gerken, 2007). Election administration in Wisconsin is an extreme version of the first value. While county officials tend to be the front-line administrators for elections, in Wisconsin this task is a duty of officials in each of the 1,851 municipalities (Huefner et al., 2007, 111–136). The population disparity between Milwaukee on the one hand and rural parts of the state is vast and raises questions of equal administrative capacity (Kimball and Baybeck, 2013) when it comes to questions like the placement and staffing of polling places in an election.

These administrative decisions can directly shape participation. Disrupting one's routine with regard to voting—whether by relocating or reducing the number of polling places—reduces turnout by imposing new search and transportation costs on voters (Brady and McNulty, 2011). A moved polling place reduced the likelihood of voting by about 5.5 points in a 2001 local election (Haspel and Knotts, 2005). Consolidation between 2000 and 2008 reduced county-level turnout by about nine-tenths of a point (Kropf and Kimball, 2012, 68). Increasing the distance to polls in California in 2003 reduced the likelihood of voting in person by between 2 and 4 points, while consolidating polling places in a New York State local election reduced turnout by an average of 7 points (McNulty et al., 2009). A recent study of nine municipalities in Massachusetts and Minnesota found increasing the distance to the polls by about 0.25 miles reduced turnout by between 2 and 5 points, and that this effect was more pronounced among "high-minority, low-income, and low-car-availability areas" in the context of a non-presidential election (Cantoni, 2020, 88). While absentee voting is more likely as the distance to the polls increases, this effect is not large enough—at least in past elections to offset the decrease from consolidation itself (Brady and McNulty, 2011).

The effect of distance to the polling place on voting is nonlinear (Dyck and Gimpel, 2005, 541–542; Gimpel and Schuknecht, 2003, 481–484). Dyck and Gimpel (2005) deploy observations ranging from 0.1 to 65 miles from the polling place. They report being one standard deviation from the polls (about 1.75 miles) reduced the likelihood of voting at the polls by 2.3 points, but made absentee voting more likely by 0.9 points. A study of three counties in Maryland in the 2000 election found moving 1 mile *closer* to the polls made voting *more* likely by 0.45 points, while observing generally that "[t]urnout is highest when distances to the polling place are very short, and when they are

excessively long, but lower in the middling ranges of distance" (Gimpel and Schuknecht, 2003, 481).

Vote centers are an alternative convenience voting reform that could be well-suited to counteract the depressive turnout effects of polling place consolidation. Vote centers are distinguished from polling places in two ways: They are open to all voters in an area (like a county or group of precincts) and are centralized (Stein and Vonnahme, 2008, 490–491). Vote centers increase turnout among infrequent voters and in low-turnout elections (Stein and Vonnahme, 2008, 2012; but see Cortina and Rottinghaus, 2019). That being said, this reform was not adopted in the April primary in Wisconsin. Election officials instead maintained the precinct-based assignment for voters instead of opening each polling place to any registered voter in the jurisdiction (Mickle, 2020).

The literature discussed above, however, examines the effect of polling place consolidation under more normal circumstances. It is unclear how well this work speaks to elections held during a pandemic. Indeed, with more than 97% of polling places in Milwaukee City closed, the primary contest may be better understood as an example of conducting elections entirely by mail, as is the case in some western states. That reform increased turnout in Washington (Gerber et al., 2013; Henrickson and Johnson, 2019), decreased turnout in California (Bergman and Yates, 2011; Elul et al., 2017; Kousser and Mullin, 2007), and had no significant effect in Oregon (Gronke and Miller, 2012). That the same reform has disparate effects where it has been adopted is one reason scholars are left unsatisfyingly answering the question about the turnout effects of convenience voting reforms with both "'no' and 'yes'" (Bergman, 2015). Of course, these shifts to vote-by-mail were planned out policy changes accompanied by voter education programs. It seems likely that a last-minute decision to conduct the election this way would be less successful at mitigating any depressive effects.

This literature provides the framing for Hypothesis A: By both increasing the distance voters had to travel to arrive at their polling places and requiring that they learn the location of the new polling place, we expect that polling place consolidation lowered turnout in the City of Milwaukee.

The City of Milwaukee was also home to a worse COVID-19 outbreak leading up to the election. In Milwaukee County there had been roughly 14 positive tests for COVID-19 per 10,000 residents as of the date of the primary election, compared with 7.5 positive tests per 10,000 residents in Ozaukee County, and 4.4 and 4.2 in Washington and Waukesha Counties, respectively. Opportunity cost literature indicates that this probably further decreased the turnout of residents of the city. As Rosenstone (1982) notes, competing demands on voters' time such as "family illness [or the] death of a close friend or relative" (p. 42) can reduce turnout. Other research has found that

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the death of a spouse (Hobbs et al., 2014) and negative health events (Pacheco and Fletcher, 2015) decrease participation. The concentration of COVID-19 in the City of Milwaukee may have increased these "opportunity costs" and depressed turnout in addition to any effect associated with the closed polling places.

We form Hypothesis B based on the opportunity cost literature: Greater exposure to COVID-19 in the City of Milwaukee reduced turnout above-and-beyond the negative effects due to polling place consolidation.

With both treatment effects pushing in the same direction, it is unclear whether COVID-19 depressed turnout more via polling place closures or via other mechanisms.

Data and Research Design

We use individual-level voter registration and turnout records from L2 Political to estimate all our models. In addition to providing the information available in the registered voter file, L2 provides estimates for voters' partisan affiliation (voters do not register with parties in Wisconsin), race, household income, and education. Milwaukee is the most segregated large American city with a substantial Black population (Frey, 2018). Because L2's racial estimates rely (in part) on neighborhood demographics, this segregation increases the precision of these estimates. Put differently, if the population of a census tract is 98% White, estimates about any individual's race will be far more accurate than a tract in where the population is 50% White and 50% Black. L2 also geocodes voters to their home addresses. Although L2 data includes vote mode in some states' voter files, our copy of the L2 Wisconsin file merely records whether—not how—an individual votes. This is an important limitation: We can test only whether someone shifted from being a voter to being a non-voter, but cannot test who shifted from in-person to mail voting. Nevertheless, these data allow us to test for any net depressive effects on turnout.

Compared to the City of Milwaukee, the rest of the state did not see such drastic consolidation of polling places. Outside of Milwaukee, the state had 10.2% fewer polling places open in April 2020 than November 2016 (see Figure 1). The cuts in Milwaukee led to many more registered voters per polling place: Although Washington, Ozaukee, and Waukesha Counties each had 1 polling place for every 7,000 or fewer voters, there was only 1 polling place for every 103,000 registered voters in the City of Milwaukee. As discussed above, residents of Milwaukee were also likely subjected to a *second* treatment due to the severity of COVID-19. Simply comparing the turnout of Milwaukee to the suburbs therefore cannot reveal the depressive effect of

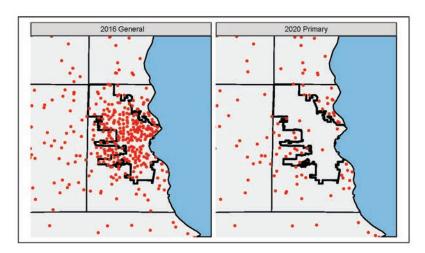


Figure 1. Distribution of Polling Places in Milwaukee City and Surrounding Counties.

Source: Wisconsin Elections Commission.

Note: Thin lines show county borders. Thick lines show Milwaukee City border.

polling place consolidation alone, but rather the net effect of higher exposure to the pandemic *combined with* poll site closures.

Unfortunately, low-level data on the prevalence of COVID-19 on or before election day is unavailable. Shortly after the election the state began publishing counts at the census tract level, but these figures are not available for the period in which they were most relevant for this study—that is, before voters headed to the polls.

To isolate the effect of polling place consolidation from COVID-19, we leverage electoral jurisdiction boundaries as an assignment to treatment mechanism (Cantoni, 2020; Kaplan and Yuan, 2020). Our primary design is akin to a regression discontinuity in space that exploits the municipal boundary line to compare turnout for voters on either side of the "cutpoint" (Keele et al., 2015). Because of how close these voters lived to one another, it is likely they went about their daily lives in the same local milieu. Social geography has an effect on local politics and participation in elections (Enos, 2017; Gimpel et al., 2004; Tam Cho et al., 2006), and research from New Orleans indicates that COVID-19 is clustered at the neighborhood level (Van Holm et al., 2020). We therefore assume that, although they lived in different municipalities, the people proximate to each other but on either side of the municipal boundary were similarly exposed to COVID-19. Put differently,

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we *directly* control for a host of covariates from the voter file, and we *indirectly* control for COVID-19 by selecting pairs of treated and control voters who live in very close proximity to one another.

The regression discontinuity framework, however, assumes that individuals cannot "select" around the cutpoint; that within a narrow window, individuals on either side of the cutpoint are identical. This is probably too strong of an assumption: Voters likely select around the administrative boundary, a problem exacerbated by Milwaukee's extreme segregation. Keele et al. (2015) suggests a solution to this problem: "When there appears to be strong self-selection around the border of interest, one alternative is to combine designs and to assume that, after conditioning on covariates, treatment assignment is as-if randomized for those who live near the city limit" (p. 228). They combine regression discontinuity and matching methodologies, exploiting the Milwaukee City municipal boundary to investigate whether ballot initiatives increase turnout.

We adopt this approach by genetically matching (Sekhon, 2009) each registered voter in Milwaukee City to two voters who live outside the city but in Milwaukee, Waukesha, Washington, or Ozaukee County, which each share a border with Milwaukee City. Although these counties include some urban areas, we refer to the controls as suburban voters for convenience. To be sure, the vast majority of our eventual control voters live very close to the Milwaukee border—and are thus in fact suburbanites in the traditional sense.

Treated and control voters are matched exactly on turnout in the 2016 and 2018 primary elections. Voters are also matched on their gender, their household income, whether they have a college education, their race or ethnicity, and on their partisan affiliation. Finally, we include voters' latitude and longitude to ensure physical proximity to one another.

Although this differs from a regression discontinuity in which there is a band around a cutpoint, the logic is the same. As the maximum allowed distance between treated and control voters approaches zero, we narrow the band around the cutpoint represented by the municipal border. For instance, when the maximum distance allowed between a treated voter and her match is 0.5 miles, each voter will live (on average) within 0.25 miles of the border. It is important to note that this is more conservative than matching treated and control voters within a buffer around the border—not only must pairs both live inside a buffer, they must also live near one another within that buffer.

By beginning with a strict geographic restriction, we isolate the causal effect of polling place consolidation on turnout. To estimate the net effect of polling place consolidation *and* COVID-19, we then expand the maximum distance allowed between treated and control voters. These geographic buffers range between 150 feet and 10 miles. While we cannot directly observe

the effect of COVID-19, we can observe whether the overall treatment effect grows larger as we introduce more distance between the pairs. Because we have controlled for other relevant covariates, the only additional difference between treated and control voters will be their COVID-19 exposure.

Our results are likely to be somewhat conservative. Some municipalities outside of Milwaukee City reduced their number of polling places (see Figure 1). This means some of our control voters received a very weak treatment, therefore collapsing the difference between the treated and control voters and pushing our estimated treatment effect toward zero. We do not expect that different races in the suburbs and City of Milwaukee differently structured turnout. The April primary ballot included Democratic and Republican presidential primaries, a race for a seat on the state supreme court, seats on the state court of appeals and the state courts, and a statewide referendum. While Milwaukee County and the surrounding counties are in different Appeals Court districts, both judicial districts had races on the ballot, though the race in Milwaukee County was uncontested. At the circuit court level, only Ozaukee County did not have a judicial race in the election. There is, in short, little cause for concern of unique campaign effects biasing our results. The only contextual differences between Milwaukee City and its suburbs are therefore the polling place consolidation and disparate prevalence of COVID-19.

Results

We begin by presenting the results of the matching model, where each treated voter is matched with two control voters. 10 Table 1 demonstrates that the matching procedure was largely successful: We achieve substantial improvement along all characteristics. Milwaukee City is far less White than the suburbs; has far lower incomes and education levels; and saw much lower turnout in recent primary elections. We do not include latitudes and longitudes in the balance table but the average distance between a treated voter and her controls is 2.2 miles. Matching is done with replacement, and ties are broken randomly.

Table 2 presents the results of ordinary least squares regressions testing the treatment effect. In Table 2 we require treated and control voters to live within 0.5 miles of one another. The for this reason, the number of observations in Table 2 is relatively low: Most Milwaukee voters do not live within 0.5 miles of the municipal border and a suburban control, and are thus excluded. In fact, just 13% of registered voters in Milwaukee City (and their matches) are included in this specification. The dependent variable takes the value 1 if a voter cast a ballot in the April primary, and 0 if she did not. We also test whether the treatment effect was different for Black voters than for

Table I. Balance Table.

	Means: unmatched data	unmatched data	Means: matched data	: matched data		Percent im	Percent improvement	
	Treated	Control	Treated	Control	Mean diff	eQQ Med	eQQ Mean	eQQ Max
% Voted in 2016 primary	26.80%	\$1.60%	26.80%	26.80%	001	001	00	00_
% Voted in 2018 primary	15.20%	27.90%	15.20%	15.20%	00	00	001	00
% Male	45.60%	45.50%	42.60%	42.60%	001	00	001	00
% Democrats	65.50%	20.70%	65.50%	65.50%	66.66	00	66.66	001
% Republican	8.60%	58.40%	8.60%	8.60%	66.66	001	66.66	001
Income	\$59,317	\$99,255	\$59,317	\$59,334	96.66	001	16.66	8.66
% With collegiate education	12.70%	33.30%	12.70%	12.70%	001	001	001	001
% White	46.30%	76.00%	46.30%	46.30%	001	001	001	001
% Black	30.80%	0.30%	30.80%	30.80%	001	001	001	001
% Latino	8.80%	3.40%	8.80%	8.80%	001	00	00	001
% Asian	1.90%	1.70%	1.90%	1.90%	00	00	001	001

Table 2. Turnout in 2020 Primary.

Turnout in 2020 primary					
			Turnout		
	(1)	(2)	(3)	(4)	(5)
Lives in Milwaukee	-0.087*** (0.002)	-0.087*** (0.002)	-0.087 $\approx (0.002) -0.087$ $\approx (0.002) -0.086$ $\approx (0.002) -0.086$ $\approx (0.002) -0.086$	-0.086*** (0.002)	-0.086*** (0.002)
Black		-0.036*** (0.004)	-0.036% (0.004) -0.032% (0.006) -0.029% (0.006) -0.032% (0.006)	-0.029*** (0.006)	-0.032*** (0.006)
Black×Lives in Milwaukee			-0.014** (0.007)	-0.014** (0.007) -0.013** (0.007)	-0.014** (0.007)
Positive test rate					-0.004 (0.014)
Constant	0.268*** (0.002)		0.051*** (0.004) 0.270*** (0.002)	0.050*** (0.004)	0.271*** (0.002)
Includes other matched covariates		×		×	
Includes county fixed effects	×	×	×	×	×
Observations	181,181	181,181	181,181	181,181	181,181
R^2	0.011	0.357	0.012	0.357	0.012
Adjusted R ²	0.011	0.357	0.012	0.357	0.012

Note: Robust standard errors (clustered by at level of match) in parentheses. Models 2 and 4 also include the covariates listed in Table 1. ***p < .01, ***p < .05, *p < .1.

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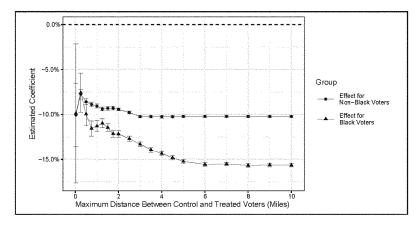


Figure 2. Estimated depressive effect of living in Milwaukee, 2020 primary. Note: 95% confidence bars shown.

other voters which Cantoni (2020) indicates is possible. Models 1 and 3 include just the treatment variable (and, in Model 3, the interaction term) while Models 2 and 4 add in the variables on which the matching was performed (but without latitude and longitude).

Some important characteristics are unavailable at the individual-level and are not included in the matching procedure. We expect, however, that these will vary with the characteristics that are included. Car-ownership, for one example of an omitted variable, is a significant factor in turnout effects of polling place consolidation (Cantoni, 2020) and provides a helpful post hoc test of this assumption Although car ownership is not included in the model, the average treated voter in Table 2 lives in a census tract where 90.61% of households own cars; their controls live in neighborhoods where that figure is 90.64%. We thus have good reason to believe that the matching procedure reduces differences between treated and control voters even for characteristics not directly included.

Although COVID-19 data is not available prior to the election, the Department of Health Services began releasing this data at the census tract level shortly after the election. We use cumulative positivity rates from April 21—2 weeks after the election—to proxy potential COVID-19 rates as of the election as a robustness check in Model 5. Insofar as these are correlated with COVID-19 prevalence on election day, they may be probative to the direct effect of COVID-19 on turnout. However, because the COVID-19 data is not available as of the primary election, Model 5 is not intended to provide

definitive proof of the relationship between virus prevalence and turnout. In each model, robust standard errors are clustered at the level of the match (Abadie and Spiess, 2021).

Models 1 and 2 indicate that turnout was depressed by roughly 8.7% points in the April primary in Milwaukee City relative to suburban voters. Models 3 and 4 indicate that this decrease was especially pronounced among Black voters, whose turnout was about 10% points below that of their suburban matches. Model 5 shows no significant turnout effect where a higher share of cumulative COVID-19 tests was positive 2 weeks after the election. The large treatment effect supports Hypothesis A.

We are also interested in whether the size of the treatment effect grows as we include pairs who live further away from one another. Figure 2 re-estimates of Model 3 from Table 2 using different maximum distances between pairs. As the maximum distance between treated and control voters grows, the number of observations also grows to include all registered voters in Milwaukee City and their matches.

The depressive effect for Black and non-Black voters grows as we allow paired voters to live further apart. It is important to note that this is not due to different underlying propensities to vote: The matching procedure requires that the participation (or lack thereof) of treated voters in the 2016 and 2018 primaries is exactly mirrored by their controls. The treatment effect between the half-mile and most lenient models for non-Black voters grows by roughly 1.6% points, and it grows for Black voters by 5.7 points. Given the extreme racial disparities of COVID-19 in Wisconsin (Hayda, 2020) it is unsurprising that these "direct effects" are so much greater for Black voters. This provides evidence to support Hypothesis B.

Discussion

On the one hand, polling place closures have long been understood to reduce turnout among voters. On the other hand, when jurisdictions have switched to primarily vote by mail systems, turnout has hardly changed. In the face of COVID-19, it was unclear how closed polling places would affect turnout. The enormous surge in absentee ballots indicated that the negative turnout effects might not have been large, but reporting of extensive lines for in-person voting on election day in Milwaukee (Viebeck et al., 2020) led us to expect that there were measurable negative turnout effects.

This note makes clear that polling place closures reduced turnout in the April primary in Milwaukee in the context of COVID-19, despite unprecedented demand for absentee ballots. The 8.7% point decrease we observe is quite large; this effect amounts to about a third of the 26.8% turnout among control voters. The case of Milwaukee also sheds some light on the direct

effect of COVID-19 on turnout. We know that COVID-19 was more wide-spread in Milwaukee City at the time of the election. Expanding the distance between treated and control voters led to larger treatment effects. Because the only thing varying in these specifications was space—and, therefore, COVID-19 exposure—this provides some evidence that COVID-19 directly reduced turnout (even the inclusion of the prevalence of the virus 2 weeks following the election was not related with turnout). However, despite our best efforts to reduce salient differences between treated and control voters, it is possible that Figure 2 indicates that the depressive effect of polling place consolidation on turnout is larger for central-city dwellers than those at the edges. We therefore consider these results as the first, indirect estimates of the effect of COVID-19 on turnout, which future work should measure directly.

These data have two boundary conditions it is important to bear in mind. First, the onset of the pandemic and the timing of the April primary did not allow for a robust public messaging campaign about mail voting options and it may be the case that the August and November elections, held after the initial phase of the pandemic, saw smaller effects due to less severe polling place consolidation and better voter education. The City of Milwaukee may well have learned from their April experience: In the August partisan primary, there were 168 polling places open in the city. Second, it may be the case that the larger depressive effect for Black rather than for non-Black voters that we observe is a product of the relatively high segregation rate in Milwaukee compared to other American cities. Why polling place consolidation disproportionately depressed turnout among Black voters is unclear and should be the focus of future research based in other localities. This finding, nonetheless, raises concerns about racial representation when jurisdictions are forced by a natural emergency to consolidate polling places.

This note answers one question related to the effect of COVID-19: Given the pandemic, how do polling place closures affect turnout? Future research must consider the overall turnout and representational impacts of COVID-19 on the 2020 contests. It is worth noting that recently published research found that the April primary was not linked to any surge in COVID-19 cases in Wisconsin (Leung et al., 2020), which should allay concerns that polling places can only be kept open at the expense of public health. The primary elections in Milwaukee, Wisconsin, make one thing clear: Even as many voters transition to vote-by-mail in the face of a pandemic, polling place consolidation can still have disenfranchising effects—particularly for Black voters.

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Notes

- See https://www.dhs.wisconsin.gov/covid-19/cases htm.
- See https://evers.wi.gov/Documents/COVID19/UPDATEDOrder10People.pdf.
- 3. See https://bit.ly/3fJTqZT.
- 4. See https://wapo.st/2Cg79sK.
- 5. See https://www.supremecourt.gov/opinions/19pdf/19a1016 o759.pdf.
- See https://elections.wi.gov/elections-voting/2016/fall and https://elections. wi.gov/node/6524.
- See https://elections.wi.gov/sites/elections.wi.gov/files/2020-05/April%202020%20 Absentee%20Voting%20Report.pdf.
- 8. See https://www.dhs.wisconsin.gov/covid-19/county htm.
- 9. There are two instances where we cleaned the data for the purposes of our matching methodology. First, there are 143 observations in the L2 data that are problematic. According to latitude and longitude coordinates these observations are within the boundary of Milwaukee City but are coded as outside the city. We omit these observations. Second, rather than require voters to obtain and mail absentee request forms, the villages of Whitefish Bay and Bayside automatically sent mail ballot applications to all registered voters, potentially driving up their turnout relative to Milwaukee City (Gilbert, 2020). We therefore exclude voters in these villages as potential controls.
- 10. Due to computing constraints, we use a 1% sample of voters (stratified by treatment status) to generate weights used in the actual matching model, though the whole pool is eventually used for the matching procedure itself.
- 11. A treated voter might live within the cutoff distance from one of her controls but not the other. The regression weights are updated for each regression to reflect this possibility.
- 12. Positive test rates are calculated as positive counts divided by the sum of positive and negative counts. The Department of Health Services replaces counts of less than five COVID-19 cases with "-999;" we re-code these as the mean value "2." See: https://data.dhsgis.wi.gov/datasets/covid-19-historical-data-by-census-tract.
- 13. See https://elections.wi.gov/node/6527.

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APPENDIX C

BRENNAN CENTER FOR JUSTICE

Purges: A Growing Threat to the Right to Vote

By Jonathan Brater, Kevin Morris, Myrna Pérez, and Christopher Deluzio

Brennan Center for Justice at New York University School of Law

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Introduction

n April 19, 2016, thousands of eligible Brooklyn voters dutifully showed up to cast their ballots in the presidential primary, only to find their names missing from the voter lists. An investigation by the New York state attorney general found that New York City's Board of Elections had improperly deleted more than 200,000 names from the voter rolls.

In June 2016, the Arkansas secretary of state provided a list to the state's 75 county clerks suggesting that more than 7,700 names be removed from the rolls because of supposed felony convictions. That roster was highly inaccurate; it included people who had never been convicted of a felony, as well as persons with past convictions whose voting rights had been restored.

And in Virginia in 2013, nearly 39,000 voters were removed from the rolls when the state relied on a faulty database to delete voters who allegedly had moved out of the commonwealth. Error rates in some counties ran as high as 17 percent.

These voters were victims of purges — the sometimes-flawed process by which election officials attempt to remove ineligible names from voter registration lists. When done correctly, purges ensure the voter rolls are accurate and up-to-date. When done incorrectly, purges disenfranchise legitimate voters (often when it is too close to an election to rectify the mistake), causing confusion and delay at the polls.

Ahead of upcoming midterm elections, a new Brennan Center investigation has examined data for more than 6,600 jurisdictions that report purge rates to the Election Assistance Commission and calculated purge rates for 49

We found that between 2014 and 2016, states removed almost 16 million voters from the rolls, and every state in the country can and should do more to protect voters from improper purges.2

Almost 4 million more names were purged from the rolls between 2014 and 2016 than between 2006 and 2008.3 This growth in the number of removed voters represented an increase of 33 percent — far outstripping growth in both total registered voters (18 percent) and total population (6 percent).

Most disturbingly, our research suggests great cause for concern that the Supreme Court's 2013 decision in Shelby County v. Holder (which ended federal "preclearance," a Voting Rights Act provision that was enacted to apply extra scrutiny to jurisdictions with a history of racial discrimination) has had a profound and negative impact:

For the two election cycles between 2012 and 2016, jurisdictions no longer subject to federal preclearance had purge rates significantly higher than jurisdictions that did not have it in 2013. The Brennan Center calculates that 2 million fewer voters would have been purged over those four years if jurisdictions previously subject to federal preclearance had purged at the same rate as those jurisdictions not subject to that provision in 2013.4

In Texas, for example, one of the states previously subject to federal preclearance, approximately 363,000 more voters were erased from the rolls in the first election cycle after Shelby County than in the comparable midterm election cycle immediately preceding it.5 And Georgia purged twice as many voters — 1.5 million — between the 2012 and 2016 elections as it did between 2008 and 2012.

Meanwhile, the Justice Department has abdicated its assigned role in preventing overly aggressive purges. In fact, the Justice Department has sent letters to election officials inquiring about their purging practices — a move seen by many as laying the groundwork for claims that some jurisdictions are not sufficiently aggressive in clearing names off the rolls.

This new report follows an extensive analysis of this issue in a 2008 Brennan Center report entitled Voter Purges.6 In that report, we uncovered evidence that election administrators were purging people based on error-ridden practices, that voters were purged secretly and without notice, and that there were limited protections against purges. In this year's report, we discovered that little about purge practices has improved and that a number of things have, in fact, gotten worse.

This study also found:

 In the past five years, four states have engaged in illegal purges, and another four states have implemented unlawful purge rules.

Federal standards for purges were set in the 1993 National Voter Registration Act (NVRA). Since 2013, Florida, New York, North Carolina, and Virginia have conducted illegal purges. Moreover, Brennan Center research has uncovered that four states (Alabama, Arizona, Indiana, and Maine) have written policies that by their terms violate the NVRA and provide for illegal purges. Alabama, Indiana, and Maine have policies for using data from a database called the Interstate Voter

Registration Crosscheck Program (Crosscheck) to immediately purge voters without providing the notice and waiting period required by federal law (Indiana's practice has been put on hold by a federal court). Arizona regulations permit Crosscheck purges during the 90 days prior to an election, a period during which federal law prohibits large-scale purges. These eight states are home to more than a quarter of registered voters across the nation.

States use inaccurate information.

Although states have improved the way in which they use data to purge the voter rolls in some respects, several jurisdictions rely on faulty data to flag potentially ineligible voters. And some of the new sources of information that have come into widespread use since our 2008 report, such as Crosscheck, are especially problematic.

A new coterie of activist groups is pressing for aggressive purges.

Most purging litigation brought by private litigants before 2008 contended that voter removal efforts were overly aggressive. Today, a different group of plaintiffs is hauling election officials into court, claiming that purging practices in their jurisdictions are not sufficiently zealous.

This report makes the following recommendations:

Enforce the NVRA's protections.

The NVRA, one of the major federal laws governing how states and localities can conduct purges, permits voters and civic groups to sue election officials if they violate the law's provisions. Monitoring jurisdictions to ensure they are complying with the NVRA — and bringing litigation when necessary — is especially important in an era when election officials are under pressure to mount aggressive purges.

States should set purging standards that provide even more protections than the NVRA.

The NVRA sets out federal standards for purges and requires that voters removed from the rolls for certain reasons be given notification. But these are minimum guidelines. States can and should do more to protect against disenfranchisement caused by improper purges — for example, providing public and individual notice before purging names from the rolls.

Pass automatic voter registration.

Automatic voter registration is a popular reform that minimizes registration errors and allows for easy updates, making rolls more accurate and current.

Methodology

We analyzed purge statutes, regulations, and other guidance in 49 states. We interviewed 21 state or local election administrators in 18 states and reviewed documents from 20 states in response to public records requests.

We also calculated state and county purge rates using voter registration data from the Election Administration and Voting Survey (EAVS), which is administered biennially by the U.S. Election Assistance Commission. Our analysis used EAVS data from the 2008, 2010, 2012, 2014, and 2016 reports. In each two-year period, we calculated a jurisdiction's voter removal rate by dividing the number of removed voters by the sum of registered voters (i.e., both active and inactive registered voters) and removed voters. [10]

The 2018 Purge Landscape

Between the 2014 and 2016 elections, roughly 16 million names nationwide were removed from voter rolls. ¹¹ The federal law governing purges¹² allows a voter's name to be purged from the voter rolls on the following grounds: (1) disenfranchising criminal conviction; (2) mental incapacity; (3) death; and (4) change in residence. In addition to these criteria, individuals who were never eligible in the first place, such as someone under 18 or a noncitizen, may be removed. Voters may be removed at their own request (even if they remain eligible). While all 49 states with voter registration lists have affirmative policies to remove names from the rolls (typically for several or all of the four delineated categories), states vary in the manner in and frequency with which they conduct voter purges. ¹³

Disenfranchising Conviction

Except in Maine and Vermont, states disenfranchise at least some voters convicted of a crime for some period of time, which means that there are states that purge voters because of a criminal conviction. States have different policies about what causes a voter to become ineligible and different procedures for removing those who have been disenfranchised. ¹⁴ They also draw upon different lists to identify individuals with felony convictions, which may in turn be maintained with different levels of regularity and precision by courts or law-enforcement officials at the state or federal levels.

Mental Incapacity

Though less ubiquitous than some other bases of removal, 28 states have specific rules requiring removal from the rolls of a person determined not to have mental capacity to vote.¹⁵ Definitions vary, and reform attempts have had some success limiting the instances in which those with alleged mental incapacity lose their right to vote.1

Federal law mandates that states take steps to remove the deceased from the rolls. Yet there is no uniform standard among the various state laws detailing the sources of information to be consulted to determine which voters are deceased. Some jurisdictions use information from state agencies, some review obituaries, and some rely on the Social Security Administration's Death Master File.¹⁷

Residency Changes

States vary in how they perform list maintenance for changes of address. Some of that variation is in timing. Montana, for example, conducts address removals every odd-numbered year,18 and Connecticut conducts address removals annually.¹⁹ There is also variation in which source of information is used. Two common sources are drivers' license updates and the postal service's National Change of Address (NCOA) database, but states also utilize other sources, such as interstate databases, returned mailings, or voter inactivity.

Noncitizenship

While election officials generally remove names of persons when it is made known to them that a noncitizen has gotten on the rolls, at least six states also have laws that require state officials to use jury declinations, drivers' license information, and/or federal databases to actively identify noncitizens on the voter rolls, to remove names of noncitizens so identified, or both.20

CURRENT FINDINGS

Purge Rates Are Higher Than a Decade Ago

In the two-year period ending in 2008, the median jurisdiction purged 6.2 percent of its voters.21 At one end of the spectrum in 2008, Salt Lake County, Utah, purged less than 0.1 percent of its voters, and at the other end of the spectrum, Milwaukee County, Wisconsin, purged more than 34 percent of its voters. Of the 2,534 counties that reported purge rates to the Election Assistance Commission in 2008, only 97 had purged more than 15 percent of its registered voters in a two-year period.

Between the federal elections of 2014 and 2016, almost 4 million more names were purged from the rolls than in 2006-08. In this same period, more than twice the number of counties - 205 - had purged more than 15 percent of their voters than between 2006 and 2008.

Although a higher removal rate is not inherently bad, more purging means increased potential for eligible voters to be removed, especially given that we identified no state with the desired level of voter protections against purges.

Purge Rates Increased More in Jurisdictions Previously Subject to Federal Preclearance

Prior to 2013, the Voting Rights Act required certain jurisdictions with a history of discriminatory election practices to obtain federal certification that any intended election change, including voter purge practices, would not harm minority voters and was not enacted with discriminatory intent. This monitoring process was known as "preclearance."²² In 2013, however, the Supreme Court concluded in Shelby County v. Holder²³ that Congress had inappropriately determined which jurisdictions should be subject to preclearance. As a result, jurisdictions subject to (or "covered" by) preclearance requirements were freed from making the case that minority voters would not be harmed by a proposed election change.

Across the board, formerly covered jurisdictions increased their purge rates after 2012 more than noncovered jurisdictions. Before Shelby County, jurisdictions that were subject to preclearance requirements ("covered jurisdictions") had removal rates equal to other jurisdictions ("noncovered jurisdictions").24 After 2013, the two groups

FALLOUT FROM SHELBY COUNTY

Increases in purge rates in previously covered jurisdictions weren't the only changes after Shelby County.1 Following the decision, many states and jurisdictions proceeded to enact or implement laws that would have been subject to preclearance. In fact, states formerly under preclearance requirements were more likely to pass legislation restricting their voting and election practices than the nation as a whole. Of the nine states once fully covered by the Voting Rights Act, seven have passed restrictive legislation since 2010. Of the 41 states not fully covered, only 18 passed restrictive laws over the same period. Two of these states (Florida and North Carolina) each had several counties subject to the Voting Rights Act.2

- Shelby County v Holder, 570 U. S. 2 (2013). See Brennan Center for Justice, New Yoling Bestrictions in America, May 2017, https://www.brennancenter.org/sites/default/files/analysiss/. New.Yoling. Bestitictions.pdf. We include in this count legislation that was enacted and subsequently struck down by courts. See, e.g., Applewhite v Pennsylvania, No. 330 M.D. 2012.2014 W. 184988 (Pa. Commw. Ct. Jan. 17, 2014) (striking down Pennsylvania voter ID law).

sharply diverged. For the 2012-14 and 2014-16 two-year election cycles, the removal rate for noncovered jurisdictions did not budge. The story was entirely different for covered jurisdictions, whose median removal rate was 2 percentage points higher after the Shelby County decision than the noncovered jurisdictions.²⁵ Though 2 percentage points may seem like a small number, more than 2 million fewer voters would have been removed if these counties had removal rates comparable to the rest of the country. Previously covered jurisdictions ended up removing more than 9 million voters between the presidential elections of 2012 and 2016. These increases were not concentrated in just a few small counties: 67 percent of residents in previously covered jurisdictions lived in areas where the removal rate increased, compared to just 46 percent of residents in non-covered jurisdictions. These calculations are restricted to jurisdictions that reported their data each year, but there is evidence that the same trend happened in counties that did not report each year, as our Texas analysis below shows.

The increase in removal rates in counties previously covered by the preclearance provision is not attributable to geographical or partisan factors (see footnote 25 for more information). We also conducted a difference-in-differences regression analysis²⁶ to see if population, minority presence, income, or other factors could explain the increase in removal rates in these counties. Even after controlling for these factors, a jurisdiction's former status under the Voting Rights Act was strongly associated with higher voter removal rates. Although this effect was larger in the two-year period coinciding with the lifting of the preclearance requirement, it continued even into the two-year period ending with the presidential election of 2016.

To be absolutely clear, our analysis cannot establish what percentage, if any, of these post-Shelby County purges were done erroneously. What we do know is that provisional ballots, which are given to voters who are missing from the voter rolls, had a statistically significant relationship to purge rates in previously covered jurisdictions. ²⁷ This means that as the purge rates increased, so did the number of people who showed up to vote but were unable to do so, either because their names were not on the rolls or for some other reason.

Another factor is that between the presidential elections of 2012 and 2016, a handful of states implemented strict voter ID laws that required voters to cast provisional ballots if they did not have one of the limited number of accepted identifications. The implementation of these laws could, of course, have led to an increase in provisional ballot rates. (To isolate the impact of increased purge rates on provisional ballot rates, we performed a regression

analysis in which we controlled for the implementation of strict voter ID laws and other sociodemographic factors. The regression specification and a closer look at a few counties with big increases in purge rates and provisional ballots can be found in Appendix C.)

The changes were particularly notable in three states: Georgia, Texas, and Virginia.

In Georgia, 750,000 more names were purged between 2012 and 2016 than between 2008 and 2012. Although Georgia did not report provisional ballot rates in 2012, their provisional ballot rates in the federal elections of 2010 and 2014 correspondingly increased as the removal rates increased. Of the state's 159 counties, 156 reported increases in removal rates post-Shelby County. This included the state's 86 most populous counties. The increased purge rate occurred during a period when Georgia was criticized for several controversial voter registration practices. For example, Georgia was sued for blocking registration applications between 2013 and 2016 because information (including hyphens in names) did not match state databases precisely. Georgia agreed to cease the matching rule as a result of the lawsuit but then enacted legislation reinstating a very similar practice the next year.26

Texas did not report removal rates for the two years ending in 2012 and is thus excluded from our high-level analysis of the previously covered jurisdictions. Nonetheless, the state exhibited a substantial increase in removal rates when we compare the two-year periods ending with the federal elections of 2010 and 2014. Between 2012 and 2014, approximately 363,000 more voters were removed than in 2008-10.29 Unsurprisingly, the provisional ballot rate also increased between the midterm elections of 2010 and 2014. Consistent with the broader trend, these increases were not driven only by small counties: Fourteen of the 20 most populous counties increased their removal rates. Of the 183 Texas counties that reported their removal rates in both periods, 121 saw an increase after the Shelby County decision. Among the Texas counties that consistently reported their data and increased their removal rate after the Shelby County decision, the median increase was 3.5 percent. This increased purge rate did not occur in isolation but was joined by restrictive voting legislation. In 2014, a federal district court ruled that the strict photo ID law that Texas passed in 2011 was motivated in part by a discriminatory purpose of reducing minority political participation.30 The Court of Appeals of the 5th Circuit did not decide whether the law was motivated by discriminatory animus but did conclude it had a discriminatory effect.31 In 2017, Texas passed a new voter ID law. Litigation regarding the new law is ongoing.

In Virginia, previously covered counties removed 379,019 more voters between 2012 and 2016 than between 2008 and 2012. Once again, the increase in purge rates in these counties was not driven by small counties purging more voters. All the previously covered counties except one increased removal rates after Shelby County. The one previously covered county that showed a decrease - Highland County - is the least populous county in the state, home to just 2,230 people. More than 99 percent of Virginia's voters live in counties that increased their removal rates after Shelby County. As later discussed in more detail, a contributing factor may have been a highly problematic purge process that Virginia mounted in 2013.

States Continue to Conduct Flawed Purges

Broadly speaking, purges go wrong for one of two basic reasons: bad information about who should be removed from the rolls or a bad method for removing them. There are tools to catch and correct these mistakes, some of which are legally mandated. For example, federal law sets forth some important and relevant safeguards, such as requiring that systematic purges — those in which voter rolls are compared with lists of potentially ineligible individuals to remove groups of voters at the same time occur well in advance of an election. Another is making sure certain categories of voters get a notice and waiting period before removal.32 Yet as both a legal and practical matter, many states lack sufficient safeguards to detect and correct problems so that any harm can be repaired in advance of an election.

Two states' recent experiences illustrate the basic reasons purges go wrong — Arkansas used bad information, while Texas used a bad method.

In June 2016, the Arkansas secretary of state sent county officials a list of more than 7,700 records from the Arkansas Crime Information Center (ACIC) of persons who were supposedly ineligible to vote and should be removed from the rolls.33 (Those convicted of felonies in Arkansas lose their right to vote until their sentence is complete or they are pardoned.34) But the list included a high percentage of voters who were indeed eligible,35 yet appeared on the list because they had had some involvement with the court system, such as a misdemeanor conviction or a divorce.36 Also included were names of those whose voting rights had been restored.³⁷ The error became public in July 2016, and despite the public outcry, the records of fewer than 5,000 of the more than 7,700 erroneously listed voters had been corrected by September 2016.3 Pulaski County, the largest county in the state, explained that the problem was flagged by the counties, not the state, and not all counties were able to correct errors.

Previously, the secretary of state had not been providing counties with regular updates of conviction data and, in the past, had been using the wrong source list for data on felony convictions. Once Arkansas switched to the list required by law, the secretary did an overly broad match and provided counties with inflated lists with bad matches. Pulaski County flagged the errors and was able to investigate the list, but some counties with insufficient resources simply sent purge notices to everyone on the list.35

Texas is an example of a bad purge caused by flawed data matching. In 2012, Texas officials conducted a purge of voters presumed to be dead. According to a representative from the Texas secretary of state's office, the purge was driven by a comparison of Texas voters' information to the Social Security Administration's Death Master File the first time Texas had conducted such an exercise. 40 Matching to the Death Master File was required under a then-new Texas law (H.B. 174) mandating election officials to obtain such information about potentially deceased voters quarterly.41

While the 2008 Brennan Center report on voter purges showed that the Death Master File can contain errors,42 the problem in Texas occurred because the state used what are called "weak" matches (meaning that the chances that the person identified was actually deceased were too low to be trusted) to target voters without conducting any further investigation.⁴³ For example, a voter whose date of birth and last four digits of their Social Security number matches a dead person's record would be a "weak" match.44 On these grounds, a living Texas voter (and Air Force veteran) named James Harris, Jr., was flagged for removal because he shared information with an Arkansan, "James Harris," who had died in 1996.45 According to one analysis, more than 68,000 of the 80,000 voters identified as possibly dead were weak matches.46 This policy of flagging voters based on a weak match without further investigation was eventually changed when Texas settled litigation that had arisen on account of the bad purge.47

States south of the Mason-Dixon Line do not have a monopoly on bad purges. Before the April 2016 primary election, the New York City Board of Elections purged more than 200,000 voters, the majority of whom lived in Brooklyn. In 2014 and 2015, the Brooklyn Borough Office of the Board of Elections targeted for removal people who had not voted since the 2008 election. 48 New York City officials complied with the portion of federal law requiring them to send notice to affected voters but not with the part that required them to wait two federal elections before purging those who did not respond. Instead, the Board of Elections gave voters 14 days to respond, then

purged voters immediately. In the end, nearly 118,000 registrations were canceled when voters did not respond to these notices. And through another process, an additional 100,000 voters were removed (also without the required waiting period) because New York City Board of Elections officials believed they had moved. On Election Day, thousands of voters showed up at the polls only to learn their registrations had been erased. Moreover, these problems were not evenly distributed. One report found that 14 percent of voters in Hispanic-majority election districts were purged compared to 9 percent of voters in other districts.

Federal Role in Voter Protection Diminished

The increased purge rates are a cause for concern because there are fewer federal protections against improper purges. The Shelby County decision has halted the preclearance provision, which had previously blocked election changes in certain jurisdictions unless it could be shown that the change would not make minority voters worse off and was not enacted with discriminatory intent.

And at least for now, voters have lost another important protector against improper purges: the Justice Department. Since 1993, the Justice Department has been charged with enforcing the National Voter Registration Act, the primary source of federal protection against inaccurate or overly broad purges. While the Justice Department's purge history is mixed, History to brought provoter NVRA lawsuits during the Obama administration. Enforcement actions for violating the NVRA were undertaken against at least six states. In Florida and New York, the DOJ successfully challenged state purge practices. In Florida, the Justice Department joined civic groups who successfully challenged the state's practice of conducting systematic purges just 90 days before an election.

But the Trump administration has reversed course. For instance, in *Husted v. A. Philip Randolph Institute*, the Obama administration filed a brief in support of plaintiffs challenging an Ohio purging practice in which individuals who failed to vote in a single election received purge notices and were ultimately purged if they did not respond and did not vote in the next two federal elections. Failure to vote in a single election is poor evidence of ineligibility because not voting is common; for example, in the last midterm election, nearly 60 percent of Ohioans did not vote. Se But when the case was pending before the U.S. Supreme Court in the summer of 2017, the Justice Department switched sides and supported Ohio. St On June 11, 2018, the Supreme Court ruled in favor of Ohio and the Justice Department's new position. Se

Last summer, the Trump Justice Department also sent letters to 44 states demanding information about their voter purge practices. ⁵⁹ Although the Justice Department has not taken further action so far, the suspicion is that the inquiries could be a precursor to enforcement actions to force states to purge more aggressively. ⁶⁰

New Flaws in Voter Purges

Three new risks have emerged in voter purges in recent years. One is the growth of interstate databases that purport to identify voters who have moved to a new state and are registered in both their current and former state. The two databases primarily used are the Interstate Voter Registration Crosscheck program (Crosscheck) and Electronic Registration Information Center (ERIC).

Launched in 2005 by the Kansas secretary of state, Crosscheck purports to identify voters who may have cast ballots in two different states in the same election. In 2017, 28 states participated in Crosscheck by sharing voter data with the system, ⁶¹ but not all of those states actively used, or use, Crosscheck to remove voters. The number of participating states in 2018 is still to be determined because a number of states are assessing their participation.

Another data-matching initiative, ERIC, began with assistance from the Pew Charitable Trusts in 2012. Twenty-four states and the District of Columbia are or will soon be members of ERIC.⁶²

The second risky development is the increasing number of states scouring their rolls to identify alleged noncitizens registered to vote: The number of states with statutes specifically mandating searching for and removing noncitizens from the rolls has increased from two to six since 2008. Of course, noncitizens are not permitted to vote in federal and state elections, but the sources states rely upon to determine voter citizenship, such as driver's license lists, are not highly accurate. Moreover, the primary policy justification for aggressive purges aimed at removing noncitizens from the rolls — supposed widespread noncitizen voting - is not supported by the facts, a Brennan Center study of the 2016 election found. The study looked at 42 jurisdictions in 12 states, including eight of the 10 jurisdictions with the nation's largest noncitizen populations. Out of the 23.5 million votes cast in these jurisdictions, election officials referred only 30 instances of suspected noncitizen voting, or .0001 percent of the total.6

Finally, several conservative activist groups have sued state and local jurisdictions in recent years seeking to force them to purge their rolls more aggressively. For instance, last September the Public Interest Legal Foundation noted that it had brought nine suits in six states in the past two years alleging lax vigilance of voter rolls. That tally was included in a press release announcing that the group had put 248 counties in 24 states "on notice" that they were risking litigation if they could not demonstrate "effective voter roll maintenance."64

Interstate Voter Registration Crosscheck Program (Crosscheck)

Purges based on a change of address have long been complicated and error prone. When the Brennan Center looked at purges a decade ago, it found that states primarily used the National Change of Address database compiled by the U.S. Postal Service to identify movers

(as well as driver's license information).65 But states have begun using other databases that go beyond the traditional sources of change-of-address information. Our research shows these new interstate databases have serious weaknesses that can lead to widespread and inaccurate purges.

When it began in 2005, the Kansas-based Crosscheck program had only four members.66 In 2017, the most recent year data was shared, 28 states submitted data to the program.⁶⁷ Crosscheck's purpose is to identify possible "double voters" — an imprecise term that could be used to refer to people who have registrations in two states or who actually voted in an election in multiple states. While it is not uncommon for those who have recently moved to be registered in multiple places, actual double voting is rare. In 2017, Crosscheck examined the records of 98 million

CROSSCHECK IN THE CROSSHAIRS

Crosscheck's flaws put approximately 100 million voters in its database at potential risk, but some individuals are more vulnerable than others. Because of the loose matching criteria used by the program, parents and children with the same name are at greater risk of being confused with each other. Voters with common names are also more likely to match with different individuals for obvious reasons, but a less-obvious concern is the disproportionate effect this has on minority voters. African-American, Asian-American, and Latino voters are much more likely than Caucasians to have one of the most common 100 last names in the United States 1

Crosscheck creates matches based on first name, last name, and birthdate. Shared names and birthdates

are fairly common. In fact, if you were to gather 23 or more people in the same place, there is a greater than 50 percent chance that two people would share a birthday (day and month).2 Even adding in the year doesn't make an enormous difference: In a group of 180 people, it's more likely than not that two people will have been born on the exact same day.3

Of course, adding in first and last names substantially decreases the rate at which people look the same on paper. It doesn't, however, lower that rate sufficiently to make Crosscheck anywhere near accurate. When looking at records of millions of people, matching birthdates and names can still return thousands of inaccurate matches. This is true not only because of the so-called birthday problem but also because

of the variation in the popularity of names. Jennifer, for instance, was the most common name for women born in the 1970s4 but was the 191st most common name for women born between 2010 and 2017.5 On average, 160 Jennifers were born every single day in the U.S. between 1970 and 1979. Among these, there were doubtless many who shared surnames common among Americans.

The program also hurts frequent movers such as college students and military personnel, who are more likely to be wrongly flagged by the database following a recent move. Because Crosscheck's date of registration data is unreliable. those who move more frequently are more likely to be wrongly identified as having moved out of the state that purges them.6

Non-white people are more likely to have common shared names. For instance, 16.3 percent of Hispanic people and 13 percent of black people have one of the 10 most common surnames, compared to 4.5 percent of white people. Joshua Comenetz, "Frequently Occurring Surnames in the 2010 Census," U.S. Census Bureau, October 2016, available at https://www2.census.gov/topics/genealogy/2010surnames/surnames.pdf.

Michael P. McDonald and Justin Levitt. "Seeing Double Voting. An Extension of the Birthday Problem," Election Law Journal 7, (2007): 111 –122, https://papers.ssm.

com/sol3/papers.cfm?abstract_id=997888 Sharad Goel et al., "One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections" (working paper, Stanford University, 2017) 3,

https://scholar.harvard.edu/files/morse/files/1p1v.pdf.

Intigs //scoolar.nat/sacesumes/mosesumes/prizes/ Top names of the 1970s. Social Security Administration, accessed June 15, 2018. https://www.ssa.gov/oact/babynames/decades/names1970s.html. "Top names of the 1970s." Social Security Administration, accessed June 15, 2018. https://www.ssa.gov/oact/babynames/decades/names2010s.html Sharad Goel et al., "One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections" (working paper, Stanford University, 2017) appen-dix-22, https://scholar.harvard.cdu/files/morse/files/1p1xpdf.

voters⁶⁸ and produced 7.2 million "matches" representing 3.6 million voters supposedly registered in two states.⁶⁹

Crosscheck compares the voter registration list of each participating state against the voter registration lists of the other participating states and flags all records that have the same first name, last name, and date of birth.70 But in groups as large as statewide (or multistate) voter registration lists, the statistical odds of two registrants having the same name and birth date is sufficiently high as to be problematic.71 A 2017 study led by Stanford professor Sharad Goel found that if applied nationwide, Crosscheck would "impede 300 legal votes for every double vote prevented." Moreover, the study found that "there is almost no chance that double votes could affect the outcome of a national election."73 One of Crosscheck's problems is that it does not have reliable registration dates, which means that an election official cannot competently determine which of the two places a voter is registered is more recent and therefore which state should remove the voter.

Virginia had a major problem with Crosscheck five years ago when it tried to purge nearly 39,000 voters. Crosscheck relies on little information before concluding that registration records in different states belong to the same person. Virginia sent counties the roster of voters for removal without checking its accuracy, and counties were not furnished with any guidance about the data or sufficient time to conduct a thorough review.74 Eligible voters were wrongly flagged as having moved from Virginia to another state when they had in fact moved from another state to Virginia.75 Error rates in some counties ran as high as 17 percent.76 Counties did not begin spotting errors until some had begun removing voters. At the urging of civic groups, the state issued new guidance on the use of Crosscheck data but not until thousands of voters had been purged right before a statewide election.7

Especially troubling is that at least four states have policies or regulations on the books providing for the use of Crosscheck in an illegal manner. Alabama, 78 Indiana, 79 and Maine 70 regulations allow counties to use Crosscheck to immediately purge voters from the rolls, without providing these voters notice and a two-election waiting period before deleting them as required by the NVRA. 81 And Arizona regulations permit removing voters based on Crosscheck in some instances within 90 days of a federal election, 82 which is not allowed under the NVRA for systematic purges such as those using Crosscheck.

Not all participating states are actively using Crosscheck data to identify and remove potentially ineligible voters.

In recent years, at least eight states have left the program altogether and no longer share data with or receive data from Crosscheck. ⁸⁵ Additionally, seven other states have curtailed their use of Crosscheck data by not using it for the purposes of voter-list maintenance. ⁸⁴ Instead, these states either do nothing with the data they receive or use it solely to identify people who appear to have *voted* (not merely registered) in multiple states.

In the midst of publicity around lax security protocols with Crosscheck® and news earlier this year that Crosscheck would review its security protocols and postpone uploading data,86 Illinois announced that it would no longer transmit data to Crosscheck,87 A state official was quoted as saying, "we will transmit no data to Crosscheck until security issues are addressed to our satisfaction."88 A South Carolina official expressed a similar sentiment, explaining that the state stopped using data "due to issues with verification and concerns about cybersecurity."89 According to an attorney representing the state of Indiana in litigation related to the state's use of Crosscheck, as of May 2 of this year, Crosscheck was not accepting data from participating states while a review of security processes remained in progress.²⁰

Electronic Registration Information Center (ERIC)

The Electronic Registration Information Center is a program that uses voter registration data, motor vehicle licensing information, Social Security Administration data, and National Change of Address information to identify voters who may have moved. Begun six years ago, 24 states plus the District of Columbia are enrolled in the program (or soon will be). ²¹ To participate in ERIC, states must submit extensive voter data, including full address, driver's license or state ID number, last four digits of social security number, date of birth, voter registration activity dates, current record status, eligibility documentation, phone number, and email address. ²² Election officials in ERIC-participating states told us they provide notice and a two-election waiting period before removing voters. ²³

Election officials reported that ERIC also helps them identify potential voters who have moved into their jurisdictions but have not registered. And one analysis of ERIC's first year of operation showed increases in registrations in ERIC states relative to non-ERIC states.

Although most of the election administrators that we interviewed reported positive experiences with ERIC, the new data source has its limits. Administrators from Maryland and Illinois, for example, reported that it could be difficult to determine a voter's most recent address, which is a problem for frequent movers.% This absence of precise

information means that, even though ERIC is generally processed at the state level, it is local officials who must identify errors and determine which registration is more current — the one in the relevant jurisdiction or a registration in another state.97 Wisconsin, meanwhile, reported that although ERIC was helpful in updating more than 25,000 registration addresses in 2017 and 2018, it also resulted in more than 1,300 voters signing "supplemental poll lists" at a spring 2018 election, indicating that they had not in fact moved and were wrongly flagged.98

Efforts to Purge Noncitizens Are More Frequent and Often Rely on Flawed Data

The Brennan Center's 2008 study found that attempts to purge noncitizens were rare. Back then only two states, Texas and Virginia, had laws mandating specific procedures for identifying noncitizens.99 In the last decade, four more states - Georgia, Iowa, Minnesota, and Tennessee - have passed laws requiring removal of noncitizens. 100 More states are likely to pass such laws because of pressure to aggressively search for and delete noncitizen registrations.

As is true with other purges, the information relied upon to purge alleged noncitizens can be inaccurate. For example, at least 14 states have sought access to the federal Systematic Alien Verification for Entitlements (SAVE) program,101 which checks several databases to ascertain the residence or citizenship status of people who have contacted benefit-granting agencies. 102 Some states, such as Virginia, were granted access. However, states found the database is useful only if an election administrator has someone's alien identification number, information election officials typically do not possess.10

Some states use driver's license data to purge noncitizens. Minnesota, Tennessee, and Virginia have statutes mandating this approach. Generally, driver's license data is deployed in one of two ways.104 One involves review of documents the registrant provided to the driver's license office when obtaining a license. If a person showed a Permanent Resident Card, the presumption is that the registrant is a noncitizen and should be removed from the rolls. The problem, however, is that a person can lawfully not update their driver's license information for many years, in which time they may have become a citizen. 105

States may also scour their voter lists for those who did not check the box indicating that they were a citizen on their driver's license application or renewal. Virginia has a specific statutory provision requiring this; Maryland does not but still engages in the practice. 106 Not surprisingly, election officials told us that sometimes citizens fail to check the citizenship box.107

In addition, at least three states (Georgia, Louisiana, and Texas) remove voters if they decline jury service on the grounds of noncitizenship. 108 But election officials told the Brennan Center in a 2017 report on noncitizen voting that eligible voters have been known to assert they are noncitizens solely for the purpose of evading jury duty. While illegal, these declarations are not necessarily indicative that a noncitizen has been registered to vote.

Activist Groups Pressing for More Aggressive Purges

Another new dynamic is activist groups agitating for election officials to purge the rolls more aggressively. In the past, litigation was often used by groups seeking to protect voters against bad voter purges. For example, civic groups prevented voters from being illegally purged in Michigan in 2008,110 Colorado in 2010,111 and Florida in

From 1998 through 2007, most of the litigation seeking purges was brought by the Justice Department - which made voter purges a priority in the midst of a failed nationwide voter fraud hunt113 — whereas private plaintiffs typically brought suits because they were worried eligible people would be improperly purged. From 2008 to the present however, more than half of the 32 federal purge-related lawsuits brought by private parties have been filed by plaintiffs who believed that jurisdictions are not purging enough names from the rolls.114

In nine cases brought by private parties since 2012, election officials agreed to undertake more aggressive list maintenance.115 One of the defendants in these cases was Noxubee County, a poor, rural, majority-Black county in eastern Mississippi that was sued by the American Civil Rights Union (ACRU, not to be confused with the American Civil Liberties Union).

"They went after minority counties who didn't have the financial resources to push back," said Willie M. Miller, the Election Commissioner for Noxubee County's fourth district.116 As of this writing, the ACRU is suing Starr County and the State of Texas¹¹⁷ for failing to purge aggressively enough, and the like-minded Judicial Watch has brought litigation in California. 118

Unfortunately, this litigation has consequences. The ACRU lawsuit against Noxubee County resulted in about 1,500 (more than 12 percent) of its 9,000 voters being made inactive. 119 Being designated as inactive is the first stage of the removal process. The waiting period of two federal elections has yet to expire, so it's unclear at this juncture how many voters will ultimately be removed. 120 Similarly, Judicial Watch's 2012 suit against Indiana¹²¹

arguably led to the state undertaking more aggressive list maintenance. Before the suit was dismissed, Indiana announced that it had sent an "address confirmation mailing to all voters" and undertook other purging initiatives that led to more than 480,000 canceled registrations after the 2016 election. 122 Judicial Watch boasted that their lawsuit "forced" Indiana to undertake additional purge practices;123 Indiana first sent out the required federal notices in 2014, then purged voters who did not respond and did not vote in 2014 or 2016.

Litigation is but one element of a broader strategy by these groups to force purges. In 2016, the Public Interest Legal Foundation published a report entitled "Alien Invasion

in Virginia," complete with a flying saucer on the cover. Extrapolating from a small sample, the missive misleadingly suggested thousands of votes had been cast by noncitizens,124 a claim election officials dispute.125 The Foundation's pressure may have had an impact: Six hundred ninety-three alleged noncitizens were purged in the 2016 reporting period, but that number more than doubled to 1,686 in the 2017 period. 126 The purge has spawned yet more litigation, with several voters complaining that they were wrongly deleted, and the Public Interest Legal Foundation has been sued for defamation and illegal voter intimidation.¹²⁷ Election fraud vigilantes have also brought mass challenges to voters' registrations, including in North Carolina, where a judge blocked the practice. 128

CHALLENGES CONTINUE

In at least 15 states, "challenge" laws permit challenges to the validity of a voter's registration prior to Election Day (additional states allow challenges to eligibility at the time of voting only).1 These challenge laws, which are designed to allow for questioning the eligibility of registered voters on a case-by-case basis, have been used recently in several states to try to systematically remove voters from the rolls. functioning effectively as a purge that can operate outside the NVRA's protections. The use of challenge laws as back doors for purging is legally dubious and increases the risk of wrongful removals; precisely what has happened in some states.

Colorado's former secretary of state. Scott Gessler matched the voter rolls against driver's license lists to produce a large (and inflated) list of potential noncitizens. He then attempted to use his state's challenger

laws to remove voters en masse. After much public criticism, Gessler abandoned the effort.2

In Hancock County, Georgia, the majority-white Board of Elections used challenge procedures in the weeks leading up to a 2015 municipal election to challenge 174 voters - nearly 20 percent of the town of Sparta's electorate. The majority of the challenged voters were Black. Some of the challenges were based on as little evidence as a discrepancy between a voter registration address and an address record in a flawed driver's license database. Other challenges were based on second-hand claims that a voter had moved out of the county.3 After being sued, the county agreed to reinstate wrongfully challenged voters who had been removed from registration lists.4

lowa's former secretary of state, Matt Schultz, tried to use challenges to remove suspected noncitizens from the rolls, but he was blocked by

And in North Carolina, a federal court ruled in 2016 that local boards of elections likely violated the NVRA (52 U.S.C. § 20507(c) (2)(A)) when they systematically purged hundreds of voters through citizen-initiated challenge procedures fewer than 90 days before the general election. The judge based her ruling on the systematic purge occurring within the prohibited window, but she also remarked that the challenge process, which allows voters to be removed if they do not show up at a hearing upon being challenged based on second-hand evidence of a move, seemed "insane "6 Nevertheless, state lawmakers expressly rejected legislation that would have made it more difficult to sustain a voter challenge on this basis.7

Nicholas Riley, Voter Challengers (New York: Brennan Center for Justice, August 2012), https://www.brennancenter.org/sites/default/files/jegacy/publications/Vot Nicholas Riley, Voter Cramiengers, treew from State States and Sta

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lenge-process-seems-insane-judge H. 303, Sess. 2017 (N.C. 2017), https://www2.ncleg.net/BillLookup/2017/H303

Solutions

While no one disputes the rolls should be accurate, voters should be protected from wrongful purges. There are several ways to safeguard voters from overly aggressive list maintenance:

Enforce the National Voting Registration Act's

The NVRA permits an aggrieved voter to sue if a jurisdiction has been informed of a possible violation and does not correct it in a set period of time. Litigation to enforce the NVRA is especially crucial in a time when the Justice Department is unlikely to enforce voter protections and outside groups are agitating for more aggressive purges. Of course, most voters do not have the expertise or resources to bring such litigation. Therefore it is critically important that civil rights and other pro-voter organizations rigorously monitor purge activity and have the wherewithal to sue when necessary.

States Should Enact Laws That Provide Even More Protections than the National Voter Registration

While the NVRA includes critical voter protections, states should do more. For example, the NVRA requires that voters suspected of moving from the jurisdiction receive notice of their possible removal. Not surprisingly, most states do not provide notice beyond what is federally required. For example, most states do not provide notice to voters purged based on death or a disenfranchising conviction, and many of those states that do provide notice in these circumstances do so only after the fact. States should surpass these minimal standards. No matter the reason, all voters should be informed in advance of their possible deletion and should be provided easy mechanisms for correcting errors on or before Election Day.

Enact Automatic Voter Registration.

Automatic voter registration is a popular reform that minimizes errors, saves money, and increases registration of eligible citizens. Automatic voter registration has two key features: (1) eligible citizens are registered unless they affirmatively decline; and (2) voter registration information is electronically transferred from a government office to election officials instead of relying on pen and paper. Currently, 12 states plus the District of Columbia have approved automatic voter registration. 129 In addition to adding more voters to the rolls, automatic voter registration also catches more address updates, reducing the need for changeof-address voter purges.

Endnotes

- 1 In the two-year election cycle ending in 2008, the Brennan Center found the median jurisdiction purged 6.2 percent of voters. For the two years ending in 2016, this study finds that the purge rate of the median jurisdiction had increased to 7.8 percent. We examined 49 states because North Dakota has no advance voter registration requirement and thus does not have required voter registration lists to purge. The state does keep records of individuals who vote, but it is not necessary to be on any registration list at the time of voting to cast ballots. Although there are other impediments to voting in North Dakota, including a strict photo ID law, voters do not face barriers related to voter registration in the state.
- We assessed 49 states on the following criteria: First, whether the state used the Interstate Voter Registration Crosscheck program in a way that is problematic or not compliant with the NVRA. We found five states deficient in this category. Second, whether the state makes readily available lists of purged voters. We found 49 states deficient in this category (at least 10 states have statutory requirements for making some names of purged voters available, but all fail to do so in practice). Third, whether states provide prior notice to all voters purged on the basis of death, felony conviction, or noncitizenship. We found 49 states deficient in this category (21 states have statutory requirements whereby voters purged on the basis of death or felony conviction receive notice before or after the purge, but no state requires prior notice to voters purged for both categories). For additional recommendations to guard against unlawful or problematic voter purges and why they are important, see Myrna Pérez, Voter Purges (New York: Brennan Center for Justice, September 2008), 25-31, https://www.brennancenter.org/sites/default/files/legacy/publications/Voter.Purges.f.pdf.
- 3 Calculated from total numbers reported to the Elections Assistance Commission in 2008 and 2016. Compare U.S. Election Assistance Commission, 2008 Election Administration and Voting Survey, https://www.eac.gov/research-and-data/2008-election-administration-voting-survey/, and U.S. Election Assistance Commission, 2016 Election Administration and Voting Survey, https://www.eac.gov/research-and-data/2016-election-administration-voting-survey/.
- 4 These previously covered areas had median purge rates of 9.5 percent, while noncovered jurisdictions had median purge rates of 7.5 percent.
- 5 The median county purge rate in the 2008-10 election cycle was 8.4 percent. But in the election cycle including the Shelby County decision, 2012-14, the purge rate jumped 26 percent to a median county purge rate of 10.6 percent.
- 6 Myrna Pérez, Voter Purges (New York: Brennan Center for Justice, September 2008), https://www.brennancenter. org/sites/default/files/legacy/publications/Voter.Purges.f.pdf.
- 7 Omitting North Dakota, as explained above.
- 8 We served public records requests on election officials and their offices at the state and local levels in 22 states and sought interviews with election officials in 45. The numbers referenced in the text refer to respondents.
- 9 U.S. Election Assistance Commission, 2016 Election Administration & Voting Survey, June 2017, https://www.eac.gov/research-and-data/election-administration-voting-survey/.
- Not all jurisdictions report their data consistently. Whenever we make comparisons across time periods, we restrict our sample to the counties reporting consistently. For instance, 2,394 jurisdictions report removal data for each of the two-year periods ending in 2010, 2012, 2014, and 2016. Our analysis exploring the impact of the end of the preclearance condition of the Voting Rights Act looks only at these counties to ensure an apples-to-apples comparison.
- 11 U.S. Election Assistance Commission, 2016 Election Administration & Voting Survey, June 2017, https://www.eac.gov/research-and-data/election-administration-voting-survey/. Sixteen million is in fact a conservative estimate because it includes only voters removed from jurisdictions who reported their data to the EAC in 2016. It therefore does not include voters removed during some problematic purges such as that in Kings County (Brooklyn), NY (discussed above).
- 12 National Voter Registration Act of 1993, H.R. 2, 103rd Cong. (1993), 52 U.S.C. § 20507, is the main source of

- federal requirements. For more information on federal law around purges, see Appendix A.
- 13 Some states are not required to follow the National Voter Registration Act. The NVRA exempts the following states from its purge protocols because those states had Election-Day registration or lacked voter-registration requirements on or after August 1, 1994: Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming. National Voter Registration Act of 1993, H.R. 2, 103rd Cong. (1993) 52 U.S.C. § 20504(b). This reflects Congress's assessment that purge consequences are much less grave in a state that permits anyone eligible who is not on the registration rolls to register and vote on Election Day.
- 14 "Criminal Disenfranchisement Laws Across the United States," Brennan Center for Justice, last modified April 18, 2018, https://www.brennancenter.org/criminal-disenfranchisement-laws-across-united-states.
- 15 Ala. Code § 17-4-3(a) (requiring removal "whenever...a person registered to vote in that county has...been declared mentally incompetent"); Ariz. Rev. Stat. Ann. § 16-165(C) (requiring removal "[w]hen proceedings...result in a person being declared incapable of taking care of himself and managing his property, and for whom a guardian of the person and estate is appointed, result in such person being committed as an insane person"); Del. Code Ann. tit. 15, §§ 1701(a), 1702 (requiring removal of "person adjudged mentally incompetent...[which] refers to a specific finding in a judicial guardianship or equivalent proceeding, based on clear and convincing evidence that the individual has a severe cognitive impairment which precludes exercise of basic voting judgment"); Fla. Stat. Ann. § 98.075(4) (requiring removal for "registered voters who have been adjudicated mentally incapacitated with respect to voting and who have not had their voting rights restored"); Ga. Code Ann. § 21-2-231(b) (requiring removal "[of those] who were declared mentally incompetent during the preceding calendar month in the county and whose voting rights were removed"); Haw. Rev. Stat. Ann. § 11-23(a) (requiring removal "[of person] adjudicate[ed] as an incapacitated person under the provisions of chapter 560...[if] after the investigation the clerk finds that the person...lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting"); Iowa Code Ann. § 48A.30(1)(e) (requiring removal "[if] [t]he clerk of the district court or the state registrar sends notice that the registered voter has been declared a person who is incompetent to vote under state law"); Ky. Rev. Stat. Ann. § 116.113(2) (requiring removal "[u]pon receipt of notification from the circuit clerk that a person has been declared incompetent"); La. Stat. Ann. § 18:172 (requiring removal "[after] judgment of full interdiction or a limited interdiction for mental incompetence which specifically suspends the right to register and vote and which has become definitive"); Code Me. R. tit. 29-250 Ch. 505, § 1(B) (requiring removal "[if] the municipality receives notice indicating that a registrant has been placed under guardianship due to mental illness"); Md. Code Ann., Elec. Law §§ 3-102(b)(2), 3-501 (requiring removal "[if person] is under guardianship for mental disability and a court of competent jurisdiction has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process"); Minn. Stat. Ann. § 201.145 (requiring removal "[of persons] under a guardianship in which a court order revokes the ward's right to vote or where the court has found the individual to be legally incompetent to vote"); Miss. Code. Ann. § 23-15-153(1) (requiring removal "[of voters who have] received an adjudication of non compos mentis"); Mo. Ann. Stat. § 115.199 (requiring removal "of voters...adjudged incapacitated"); Mont. Code Ann. § 13-2-402(3) (requiring removal "[if] the elector is of unsound mind as established by a court"); Neb. Rev. Stat. Ann. §§ 32-313(1), 32-326 (requiring removal "[of person] who is non compos mentis"); Nev. Rev. Stat. Ann. § 293.540(2)(b) (requiring removal "[if] the county clerk is provided a certified copy of a court order stating that the court specifically finds by clear and convincing evidence that the person lacks the mental capacity to vote because he or she cannot communicate, with or without accommodations, a specific desire to participate in the voting process"); N.M. Stat. Ann. § 1-4-26 (requiring removal "[w]hen in proceedings held pursuant to law, the district court determines that a mentally ill individual is insane as that term is used in the constitution of New Mexico"); N.Y. Elec. Law § 5-400(1) (c) (requiring removal "[of voter who] has been adjudicated an incompetent"); Ohio Rev. Code Ann. § 3503.18(B) (requiring removal of persons "who have been adjudicated incompetent for the purpose of voting, as provided in section 5122.301 of the Revised Code"); Okla. Stat. Ann. tit. 26, § 4-120.5 (requiring removal "of all persons who have been adjudged incapacitated"); S.C. Code Ann. § 7-5-340(1)(b) (requiring removal "if the elector is adjudicated mentally incompetent by a court of competent jurisdiction"); S.D. Codified Laws § 12-4-18 (requiring removal "of persons declared mentally incompetent"); Tex. Elec. Code Ann. § 16.031(a)(3) (requiring removal "on receipt of...an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote...or disqualification under Section 16.002"); Wash. Rev. Code Ann. § 29A.08.515 (requiring removal "[u]pon receiving official notice that a court has imposed a guardianship for an incapacitated person and has

determined that the person is incompetent for the purpose of rationally exercising the right to vote, under chapter 11.88 RCW"); W.Va. Code, § 3-2-23(3) (requiring removal "[u]pon receipt of a notice from the appropriate court of competent jurisdiction of a determination of a voter's mental incompetence"); Wis. Stat. Ann. §§ 6.03, 6.48, 6.935 (requiring removal "[through challenge] [of a]ny person who is incapable of understanding the objective of the elective process or who is under guardianship, unless the court has determined that the person is competent to exercise the right to vote"); W.S.1977 §§ 22-3-102(a)(iv), 22-3-115(a)(iv) (requiring removal "[of person] currently adjudicated mentally incompetent"). Additional states provide for loss of eligibility on these grounds but do not specifically describe the manner of removal. See Michelle Bishop, "Disability Is No Reason to Strip a Person's Voting Rights," HuffPost, May 12, 2018, https://www.huffingtonpost.com/entry/opinion-bishop-disability-voters_us_5af-5b085e4b0e57cdy99042f.

- 16 See Doe v. Rowe, 156 F. Supp.2d 35 (D. Me. 2001); Minnesota Voters Alliance v. Ritchie, 890 F.S. 2d 1106 (August 17, 2012); in re Guardianship of Brian W. Erickson, 4th Judicial District, Dist. Ct., Probate/Mental Health Division (October 12, 2012); see also Matt Vasilogambros, "Thousands Lose Right to Vote Under 'Incompetence' Laws," HuffPost, March 21, 2018, https://www.huffngtonpost.com/entry/thousands-lose-right-to-vote-under-incompetence-laws_us_5ab25f7ce4b004fe24699810.
- 17 E.g., Alaska Stat. Ann. § 15.07.130(c) (requiring use of information from bureau of vital statistics); Wash. Rev. Code Ann. § 29A.08.510(2) (permitting use of obituaries); Tex. Elec. Code Ann. § 16.001 (requiring use of Social Security Administration information).
- 18 Montana Code Ann. § 13-2-220.
- 19 Conn. Gen. Stat. § 9-32.
- 20 Ga. Code Ann. § § 21-1-231(a.1)(b) (requiring clerk of superior court to forward noncitizen jury declinations and requiring election officials to remove names from voter list, La. Stat. Ann. § 18:178 (requiring elerk of the court to provide names of individuals who respond to jury notices saying they are noncitizens to Department of State); Minn Stat. Ann. § 201.145 (requiring county auditor to send to county attorney list of names of individuals who are registered to vote and not citizens); Tenn. Code Ann. § 2-2-141 (requiring coordinator of elections to compare registration list with Department of Safety database to ensure non-United States citizens are not registered to vote); Tex. Elec. Code Ann. § 16.0332 (requiring registrar to initiate voter removal process for voters for whom the registrar receives a notice of disqualification or excusal from jury service because of citizenship status); Va. Code Ann. § 24.2-404(A)(4) (requiring registrars to delete record of registered voters known not to be a citizen from reports of Department of Motor Vehicles or Systematic Alien Verification for Entitlements Program).
- 21 Throughout this document we report median removal rates. The median is the appropriate measure of central tendency because of how the removal rate data are distributed. Because some jurisdictions have very high removal rates, while most are clustered close to the lower bound of zero, using the mean would artificially bias reported numbers upward.
- 22 "About Section 5 of the Voting Rights Act," The United States Department of Justice, accessed May 24, 2018, https://www.justice.gov/crt/about-section-5-voting-rights-act.
- 23 Shelby County v. Holder, 570 U.S. 2 (2013).
- 24 Between the presidential elections of 2008 and 2012, the median two-year removal rate for both previously covered and noncovered jurisdictions was 7.5 percent. Throughout this section, we limit our analysis to jurisdictions that reported removal rates for each of the two-year periods ending 2010, 2012, 2014, and 2016. Kings County, New York, for instance, did not report removal rates for the two years ending 2016 and thus is excluded from the entire pre/post Shelby analysis. It is important to note that this does not meaningfully impact our analysis: The median removal rate in 2016 for counties that reported their data each year was 7.9 percent compared to 7.6 percent for jurisdictions that reported their data in 2016 but also failed to do so in at least one other year. To maintain consistency with discussions of two-year removal rates elsewhere in this report, we continue to use two-year removal rates here. For instance, Escambia County, Florida, removed 0.42 percent of its voters between 2008 and 2010, and 0.42 percent again between 2010 and 2012. Here we call their median two-year removal rate 0.42 percent. Their four-year removal rate would, of course, be higher. We group the data into four-year buckets because of the natural variation in removal rates between presidential and nonpresidential election cycles.

25 Formerly covered jurisdictions are disproportionately located in the southeastern part of the country. We considered the possibility that the increased purge rate is attributable to some regional factor or factors aside from the lifting of the preclearance requirements. To control for this, we repeated the above analysis but restricted our sample to just those states in the Southeast (AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV). Among jurisdictions in the Southeast that consistently reported their data, 461 counties were covered under the Voting Rights Act and 388 were not. We found that even within the Southeast, formerly covered jurisdictions increased their purge rates more than their noncovered peers. In fact, noncovered jurisdictions in the Southeast did not increase their removal rates between the two periods. The increase in removal rates in previously covered jurisdictions in this region mirrored those of the group of covered jurisdictions as a whole:

	Federal Election 2008-12	Federal Election 2012-16
Previously Covered	7.2%	9.7%
Not Covered	6.6%	6.6%

Nor can the difference in purge rate be explained by differences in partisan tendency. Formerly covered counties are more Republican-leaning than the nation as a whole. Within counties that reported data consistently to the EAC, President Donald Trump received 51 percent of the ballots cast in counties that required preclearance prior to Shelby, but just 46 percent of the ballots cast in noncovered jurisdictions. To test the possibility that Republican-leaning counties were more likely to increase their removal rates regardless of their status under the Voting Rights Act, we compared the 409 previously covered jurisdictions that Trump received more votes than Hillary Clinton to the 1,594 noncovered jurisdictions in which he did so.

	Federal Election 2008-12	Federal Election 2012-16
Previously Covered	7,3%	9.4%
Not Covered	7.5%	7.4%

Removal rates in noncovered jurisdictions that Trump won did not increase their removal rates at all. Trump-supporting jurisdictions that were previously covered, however, increased their removal rates substantially. Clearly, the increase in removal rates among the jurisdictions that were covered under the VRA was not a function of an electorate likely to support Donald Trump. Sources: Toumhall.com, https://townhall.com/election/2016/president; and SouthEastern Division of the Association of American Geographers, https://townhall.com/election/2016/president; and

- 26 See Appendix B.
- 27 See Appendix C. While not a perfect predictor because there are many reasons why a voter might cast a provisional ballot, our finding that high provisional ballot numbers are probative as to the existence of a purge are corroborated by other experts in the field. See, for example, U.S. Commission on Civil Rights, Briefing Report: Department of Justice Voting Rights Enforcement for the 2008 U.S. Presidential Election (Washington: July 2009) (summarizing testimony of Dan Tokaji), http://www.usccr.gov/pubs/DOJVotingRights2008PresidentialElection.pdf.
- 28 Tim Reid and Grant Smith, "Missing Hyphens Will Make It Hard for Some People to Vote in U.S. Election," Reuters, April 11, 2018. https://www.reuters.com/article/us-usa-election-laws/missing-hyphens-will-make-it-hard-for-some-people-to-vote-in-u-s-election-idUSKBN1HI1PX. Georgia's practice of purging voters on the basis of not voting was also challenged. See Georgia State Conf. of the NAACP v. Kemp, No. 2:16-cv-219, filed Sept. 14, 2016 (N.D. Ga.); Common Cause v. Kemp, No. 1:16-cv-00452, filed Feb. 10, 2016 (N.D. Ga.). See also Tony Pugh, "Georgia Secretary of State Fighting Accusations of Disenfranchising Minority Voters," McClatchy, October 7, 2016, http://www.mcclatchydc.com/news/politics-government/article106692837.html; Regina Willis, "More Than 380,000 Georgia Voters Receive Purge Notice;" Reuire.News, July 21, 2017, https://rewire.news/article/2017/07/21/more-380000-georgia-voters-received-purge-notice/.
- 29 Overall, 54% of voters lived in counties in which the removal rate increased. Numbers are drawn from counties that reported data in both 2010 and 2014, a set representing 94% of total Texas voters.
- 30 Veasey v. Perry, 71 F.Supp.3d 627 (S.D. Tex. 2014).

- 31 Veasey v. Abbott, 830 F.3d 216 (5th Cir. 2016) (en banc) cert. denied, 137 S. Ct. 612 (2017).
- 32 National Voter Registration Act of 1993, H.R. 2, 103rd Cong. (1993), 52 U.S.C. § \$20507(b), (c)(2), (d)(2).
- 33 Holly Dickson (Legal Director, Arkansas Civil Liberties Union Foundation) to Hon. Mark Martin (Arkansas Secretary of State), October 31, 2016, 3, https://www.acluarkansas.org/sites/default/files/field_documents/369.pdf; John Lyon, "Hutchinson: Clerks Should Lean Toward Letting People Vote," Arkansas News, August 4, 2016, https://www.arkansasnews.com/news/20160804/hutchinson-clerks-should-lean-toward-letting-people-vote.
- 34 In Arkansas, those convicted of a felony are ineligible to vote "unless the person's sentence has been discharged or the person has been pardoned." Ark. Const. Amend. 51, § 9(a)(1).
- 35 More than 4,000 people were incorrectly included on the list. See John Lyon, "Hutchinson: Clerks Should Lean Toward Letting People Vote," Arkansas News, August 4, 2016, http://www.arkansasnews.com/news/20160804/hutchinson-clerks-should-lean-toward-letting-people-vote. Pulaski County found that at least 300 of the 1,800 Pulaski County residents on the list belonged to people who were "completely innocent." Matthew Mershon, "Pulaski Co. Clerk Says Sec. of State Needs to Take Responsibility in Possible Voter Purge," KATV, August 13, 2016, http://katv.com/news/local/pulaski-co-clerk-says-sec-of-state-needs-to-take-responsibility-in-possible-voter-purge.
- 36 See Benjamin Hardy, "Data Mix-Up from Ark. Secretary of State Purges Unknown Number of Eligible Voters," Arkansas Blog, Arkansas Times, July 25, 2016, https://www.arktimes.com/ArkansasBlog/archives/2016/07/25/datamix-up-from-ark-secretary-of-state-purges-unknown-number-of-eligible-voters; Brenda Blagg, "Taking a Vote: State Botches Inmate Report to County Clerks," Between the Lines, Northwest Arkansas Democrat-Gazette, July 27, 2016.
- 37 See Benjamin Hardy, "Data Mix-Up from Ark. Secretary of State Purges Unknown Number of Eligible Voters," Arkansas Blog, Arkansas Times, July 25, 2016, https://www.arktimes.com/ArkansasBlog/archives/2016/07/25/data-mix-up-from-ark-secretary-of-state-purges-unknown-number-of-eligible-voters.
- 38 See Brian Fanney, "20,000 Cases Erroneously Listed Felonies," Arkansas Democrat-Gazette, Sep. 3, 2016, https://www.pressreader.com/usa/arkansas-democrat-gazette/20160903/281496455722563.
- 39 Jason Kennedy (Assistant Chief Deputy Clerk, Pulaski County, Arkansas), interview by Brennan Center for Justice, June 8, 2018.
- 40 See Julián Aguilar, "Voter Purge Bill Raises Concerns After Living Flagged as Possibly Dead," The Texas Tribune, September 12, 2012, https://www.texastribune.org/2012/09/12/concerns-raised-after-living-voters-flagged-dead/.
- 41 2011 Tex. Sess. Law Serv. Ch. 683 (H.B. 174), https://capitol.texas.gov/tlodocs/82R/billtext/pdf/HB00174F.pd-f#navpanes=0.
- 42 See Myrna Pérez, Voter Purges (New York: Brennan Center for Justice, September 2008), 20 https://www.brennan-center.org/sites/default/files/legacy/publications/Voter.Purges.f.pdf.
- 43 See Defendant Andrade's Notice Of Withdrawal, Plea To The Jurisdiction, And Motion To Dissolve The Temporary Restraining Order, Moore v. Morton, No. D-1-GN-12-002923 (Dist. Ct. Travis Cnty. Tex. Sept. 21, 2012). See also Chuck Lindell, "State Settles Lawsuit on 'Dead' Voter Purge," American-Statesman, October 3, 2012, https:// www.statesman.com/news/state--regional-govt--politics/state-settles-lawsuit-dead-voter-purge/n1zTG10Yiyobma3AlT7QS]/.
- 44 Corrie MacLaggan, "Texas Voter Purge Lawsuit Ends with Clarification Memo on Process for Clearing Rolls," Reuters, October 3, 2012, https://www.huffingtonpost.com/2012/10/03/texas-voter-purge-lawsuit_n_1937564.html.
- 45 Lise Olsen, "Texas' voter purge made repeated errors," Houston Chronicle, November 2, 2012, https://www.chron.com/news/politics/article/Texas-voter-purge-made-repeated-errors-4001767.php.
- 46 Ibid
- 47 See Notice to the Court of Rule 11 Agreement, Moore v. Morton, No. D-1-GN-12-002923 (Dist. Ct. Travis Cnty. Tex. Oct. 3, 2012); see also Chuck Lindell, "State Settles Lawsuit on 'Dead' Voter Purge," American-Statesman, October 3, 2012, https://www.statesman.com/news/state--regional-govt--politics/state-settles-lawsuit-dead-voter-purge/n1zTG10Yiyobma3AIT7QSJ/.

- 48 See Marjorie Landa, Audit Report on the Board of Elections' Controls over the Maintenance of Voters' Records and Poll Access (New York: City of New York Office of the Comptroller, November 2017), 9, https://comptroller.nyc.gov/reports/audit-report-on-the-board-of-elections-controls-over-the-maintenance-of-voters-records-and-poll-access/.
- 49 Ibid.
- 50 New York State Office of the Attorney General, "A.G. Schneiderman Moves to Intervene in Lawsuit Against NYC Board of Elections Regarding Voter Registration Purges," news release, January 27, 2017, https://ag.ny.gov/press-re-lease/ag-schneiderman-moves-intervene-lawsuit-against-nyc-board-elections-regarding-voter.
- 51 Brigid Bergin, John Keefe, and Jenny Ye, "Brooklyn Voter Purge Hit Hispanics Hardest," WNYC, June 21, 2016, https://www.wnyc.org/story/brooklyn-voter-purge-hit-hispanics-hardest/.
- 52 The other major federal statute regulating voter purges is the Help America Vote Act of 2002 (HAVA) 52 U.S.C. § 21083(a). The law reaffirms requirements of the NVRA and contains additional regulations for the maintenance of voter lists, requires states to set up unique identifying numbers for registered voters, requires states to attempt to verify the validity of information submitted by voter registration applicants, and ensures certain voters, including those missing from the voter rolls, can cast provisional ballots.
- 53 Under the Bush Administration, the DOJ filed several suits against jurisdictions for failing to purge enough voters. Office of the Inspector General, U.S. Department of Justice, A Review of the Operations of the Voting Section of the Civil Rights Division (2013), 97, https://oig.justice.gov/reports/2013/s1303.pdf. See also Steven Rosenfeld, "Voter Purging: A Legal Way for Republicans to Swing Elections?" AlterNet, September 11, 2017, http://web.archive.org/web/20071118161151/http://www.alternet.org/story/62133/. The Department also pressured a U.S. Attorney to sue Missouri, even though St. Louis had improperly purged 50,000 voters only 4 years earlier. After that U.S. Attorney refused, he was fired. Jonathan Brater, Brennan Center for Justice, "The Purge: Ten Years Later?" June 30, 2017, https://www.brennancenter.org/blog/purge-ten-years-later.
- 54 See, e.g., "Cases Raising Claims Under the National Voter Registration Act," U.S. Department of Justice, last modified October 16, 2015, https://www.justice.gov/crt/cases-raising-claims-under-national-voter-registration-act; U.S. Attorney's Office, Eastern District of New York, "United States Announces Settlement with New York City Board of Elections Resolving Improper Removal of Voters from Registration Rolls," news release, October 31, 2017, https://www.justice.gov/usao-edny/pr/united-states-announces-settlement-new-york-city-board-elections-resolving-improper; U.S. Department of Justice, Office of Public Affairs, "State of Connecticut Agrees to Resolve Claims of National Voter Registration Act Violations," news release, August 5, 2016, https://www.justice.gov/opa/pr/state-connecticut-agrees-resolve-claims-national-voter-registration-act-violations; U.S. Department of Justice, Office of Public Affairs, "State of Alabama Agrees to Resolve Claims of National Voter Registration Act Violations," news release, November 13, 2015, https://www.justice.gov/opa/pr/state-alabama-agrees-resolve-claims-national-voter-registration-act-violations; see also Arcia v. Fla. Sec'y of State, 772 E3d 1335, 1343–48 (11th Cir. 2014) (finding Florida's purge violated the NVRA's prohibition on systematic purges within 90 days of a federal election).
- 55 Ibid
- 56 Brief for the League of Women Voters et al as Amicus Curiae supporting Respondents 17, Husted v. A. Philip Randolph Institute, No. 16-980 (2017).
- 57 Brief for the United States as Amicus Curiae supporting Petitioner, Husted v. A. Philip Randolph Institute, No. 16-980 (2017).
- 58 See "Husted v. A. Philip Randolph Institute," Brennan Center for Justice, last modified June 11, 2018, https://www.brennancenter.org/legal-work/husted-v-philip-randolph-institute-0.
- 59 See Pam Fessler, "Advocates Worry Trump Administration Wants to Revamp Motor Voter Law," NPR, July 8, 2017, https://www.npr.org/2017/07/08/536006813/advocates-worry-trump-administration-wants-to-revamp-motor-voter-law; Jonathan Brater, Brennan Center for Justice, "The Purge: Ten Years Later?," June 30, 2017, https://www. brennancenter.org/blog/purge-ten-years-later. For an example of the letters, see https://assets.documentcloud.org/ documents/3881818/SOS-Letter.pdf.
- 60 For example, Vanita Gupta (CEO of the Leadership Conference on Civil and Human Rights and former head of DOJ's civil rights division under President Barack Obama) said that, "[i]t is not normal for the Department of

Justice to ask for voting data from all states covered by the National Voter Registration Act. It's likely that this is instead the beginning of an effort to force unwarranted voter purges." Sam Levine, "This DOJ Letter May Be More Alarming Than Trump Commission's Request For Voter Data," HuffPost, July 5, 2017, https://www.huffingtonpost.com/entry/department-of-justice-voter-purge_us_595d22b1e4b0da2c7326c38b. See also Leon Neyfakh, "How Trump's DOJ Will Try to Purge Voter Rolls," Slate, July 11, 2017, http://www.slate.com/articles/news_and_politics/jurisprudence/2017/07/how_trump_s_doj_will_try_to_purge_voter_rolls.html (describing DOJ letters as "a first step toward bringing back a George W. Bush—era strategy of forcing states to aggressively purge their voter rolls under threat of litigation"). The Department did intervene in a lawsuit filed against Kentucky by a private plaintiff organization seeking more aggressive purging. Judicial Watch, Inc. v. Grimes, 3:17-cv-00094, filed November 14, 2017 (E.D. Kv.).

- 61 Kansas State Rep. Keith Esau, "Interstate Voter Registration Crosscheck Program" (PowerPoint presentation, National Conference of State Legislators, Williamsburg, VA, June 15, 2017), 5, http://www.ncsl.org/Portals/1/Documents/Elections/Kansas_VR_Crosscheck_Program.pdf.
- 62 "ERIC," Electronic Registration Information Center, accessed May 24, 2018, http://www.ericstates.org/.
- 63 Christopher Famighetti, Douglas Keith, and Myrna Pérez, Noncitizen Voting: The Missing Millions (New York: Brennan Center for Justice, May 2017), https://www.brennancenter.org/sites/default/files/publications/2017_Non-citizenVoting_Final.pdf.
- 64 Public Interest Legal Foundation, "248 Counties Have More Registered Voters Than Live Adults," news release, September 25, 2017, https://publicinterestlegal.org/blog/248-counties-registered-voters-live-adults/. The Brennan Center for Justice and other civil rights groups contacted the same jurisdictions to notify them that some information provided by the organization was misleading. Brennan Center for Justice, "Civil Rights Groups Launch National Effort to Combat Alarming Voter Purge Attempt," news release, November 22, 2017, https://www.brennancenter.org/press-release/civil-rights-groups-launch-national-effort-combat-alarming-voter-purge-attempt.
- 65 See Myrna Pérez, Voter Purges (New York: Brennan Center for Justice, September 2008), https://www.brennancenter.org/sites/default/files/legacy/publications/Voter.Purges.f.pdf.
- 66 Missouri, Iowa, Nebraska, and Kansas. See Memorandum of Understanding Between the State of Iowa, Nebraska, and Kansas For the Improvement of Election Administration, December 2005 (on file with the Brennan Center for Iustice).
- 67 These states were Alabama, Arizona, Arkansas, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia. This information is derived from a spreadsheet obtained from officials in Idaho via public records request (on file with the Brennan Center for Justice).
- 68 Ibid.
- 69 Ibid. Some of these matches could also include individuals matched in more than 2 states, so the number of individuals could be lower than 3.6 million.
- 70 Interstate Voter Registration Crosscheck Program, 2017 Participation Guide, January 2017, goo.gl/zbsygH.
- 71 See infra text box describing limitations of name and birthdate matching.
- 72 Sharad Goel et al., "One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections" (working paper, Stanford University et al., 2017), 3, 26, https://scholar.harvard.edu/files/morse/files/1p1v.pdf.
- 73 Ibid. 27.
- 74 See Jonathan Brater, Brennan Center for Justice, "Virginia Offers Lessons for Voter List Maintenance," November 25, 2013, https://www.brennancenter.org/analysis/virginia-offers-lessons-voter-list-maintenance.
- 75 See Jim Nolan, "Chesterfield Registrar Delays Purge of Voter Rolls," Richmond Times-Dispatch, October 9, 2013, http://www.richmond.com/news/local/chesterfield/chesterfield-registrar-delays-purge-of-voter-rolls/article_162e36b5-0be7-5dc8-af9f-48876a167b43.html.

- 76 Ibid.
- 77 See Matthew Barakat, "Va. Removes 40K From Voter Rolls Over Democrats' Objections," Richmond Times-Dispatch, October 17, 2013, http://www.richmond.com/news/state-regional/va-removes-k-from-voter-rolls-over-democrats-objections/article_2d111dc4-49de-523b-bd9c-5d93b7c0a00e.html. Virginia subsequently began to release reports explaining, among other things, the way Crosscheck data was used. They found that only 10 percent of Crosscheck matches were usable for list maintenance. Virginia Department of Elections, Annual List Maintenance Report, 2017, 5, https://www.elections.virginia.gov/Files/maintenance-reports/2017SBEListMaintenancer-port.pdf.
- 78 Alabama law exempts county boards from the requirement that they contact voters to verify suspected address changes when another state provides notice that "the elector registered to vote in another jurisdiction, within or without the State of Alabama, at a date subsequent to the date the elector registered to vote in the jurisdiction of the county board of registrars." Ibid. at § 17-4-38.1(c). An Election Handbook provided by the Alabama Secretary of State's office indicates that such notice is sufficient to disqualify and remove the voter when a "registration official from another state notifies registrars in writing that the voter has registered elsewhere." Alabama Law Institute, Alabama Election Handbook: Eighteenth Edition (2017), 262. But in a December 1, 2016 email obtained through a public records request, the Secretary of State's Supervisor of Voter Registration provided county registrars a list of voters that Crosscheck suggested had "registered to vote in another state more recently" than in Alabama and directed the registrars to review the list and "take the action you would normally take as if you received notice directly from another state." Clay Helms (Supervisor of Voter Registration, Office of Alabama Secretary of State), email to local registrars, December 1, 2016, on file with authors. In an interview, Alabama confirmed that the state has considered Crosscheck data as information provided directly from another state; although the state does filter the data to rule out some mismatches, it does not require a notice and waiting-period process. Alabama, which uses ERIC, has not determined whether it will use Crosscheck in future years. John Bennett (Deputy Chief of Staff/Communications Director, Alabama Secretary of State's Office), interview by Brennan Center for Justice, June 15, 2018.
- 79 Indiana Code § 3-7-38.2-5(d). The Brennan Center is suing Indiana over this matter. Indiana NAACP & League of Women Voters of Indiana v. Lawson, No. 1:17-cv-2897 (S.D. Ind.). Indiana's law does not provide notice as required by the NVRA. See Indiana Code § 3-7-38.2-5(d). On June 8, 2018, a federal judge issued a preliminary injunction against the law, meaning it is temporarily blocked. Order Granting Plaintiffs' Motion for Preliminary Injunction, Indiana NAACP & League of Women Voters of Indiana v. Lawson, No. 1:17-cv-2897 (S.D. Ind.). Available at https://www.brennancenter.org/sites/default/files/legal-work/2018-06-18_Order_Granting_Plaintiffs%27_Motion_for_Preliminary_Injunction.PDF.
- 80 "2017 Maine Crosscheck Data Review Plan" (providing, "If the matched data shows that the Maine voter record is older than the other state's voting record, then the Maine record will be cancelled. No notice to the voter is required"). Document produced in response to public records request issued by Brennan Center for Justice and on file with authors.
- 81 Idaho also removes voters immediately, but its practice permitting immediate removal of individuals flagged by Crosscheck without notice or a waiting period does not violate federal law because Idaho is exempt from the NVRA, and therefore does not have to abide by the NVRA notice and waiting period requirements.
- 82 State of Arizona, Elections Procedures Manual, 2018 Edition, 104, http://live-az-sos.pantheonsite.io/sites/default/files/2018%200330%20State%20of%20Arizona%20Elections%20Procedures%20Manual.pdf (allowing removal within 90 days in the case of a "true match," which could, but need not, involve direct confirmation from the voter). Arizona declined to be interviewed for this report but informed the Brennan Center that it no longer participates in Crosscheck. Eric Spencer (State Election Director), email to Brennan Center for Justice, June 14, 2018, on file with the Brennan Center. The state did participate in the last Crosscheck match in 2017, and its 2018 election manual provides for removal through Crosscheck.
- 83 These states are Alaska, Florida, Kentucky, Massachusetts, New York, Oregon, Pennsylvania, and Washington. See Jonathan Brater, Brennan Center for Justice, "The Purge: Ten Years Later?," June 30, 2017, https://www.brennancenter.org/blog/purge-ten-years-later. In addition to those states, Arizona informed the Brennan Center that it is no longer participating in Crosscheck. Eric Spencer (State Election Director, Arizona), email to Brennan Center for Justice, June 14, 2018, on file with the Brennan Center.
- 84 According to the Center for Investigative Reporting, those 7 states are: Colorado, Georgia, Louisiana, Nevada,

- North Carolina, South Carolina, and West Virginia. See Aaron Sankin, "Crosscheck is ineffective and insecure. But states aren't withdrawing," *Reveal*, March 26, 2018, https://www.revealnews.org/blog/crosscheck-is-ineffective-and-insecure-but-states-arent-withdrawing/.
- 85 For a discussion of some of these security lapses, see, for example, Jonathan Brater, Brennan Center for Justice, "The Purge: Ten Years Later?," June 30, 2017, https://www.brennancenter.org/blog/purge-ten-years-later; Dell Cameron, "As Crosscheck Moves to Secure Voter Data, Hacking Fears Grow Among Experts and Politicians," https://gizmodo.com/as-crosscheck-moves-to-secure-voter-data-hacking-fears-1822344007.
- 86 See Testimony on the Interstate Crosscheck Program, Kan. H. Comm. on Elections, January 17, 2018 (testimony of Bryan A. Caskey, Director of Elections), https://www.kslegislature.org/li/b2017_18/committees/ctte_h_electns_1/documents/testimony/20180117_01.pdf; Allison Kite, "Kobach's Office Will Delay Data Uploads for Crosscheck Voter System to Accommodate Security Review," The Topeka Capital-Journal, January 17, 2018, https://www.cjonline.com/news/20180117/kobachs-office-will-delay-data-uploads-for-crosscheck-voter-system-to-accommodate-security-review.
- 87 Sophia Tareen, "Illinois Delays Sending Voter Data to Multi-State Program," Associated Press, January 16, 2018, https://www.usnews.com/news/best-states/illinois/articles/2018-01-16/illinois-delays-sending-voter-data-to-multi-state-program.
- 88 Ibid.
- 89 Aaron Sankin, "Crosscheck Is Ineffective and Insecure. But States Aren't Withdrawing," Reveal, March 26, 2018, https://www.revealnews.org/blog/crosscheck-is-ineffective-and-insecure-but-states-arent-withdrawing/.
- 90 See Transcript of Oral Argument at 49:7-50:13, In. NAACP & League of Women Voters of In. v. Lawson, No. 1:17-cv-2897 (S.D. Ind., May 2, 2018).
- 91 "ERIC," Electronic Registration Information Center, accessed May 24, 2018, http://www.ericstates.org/.
- 92 Electronic Registration Information Center, Inc., Bylaws, December 2016, 21, http://www.ericstates.org/images/documents/ERIC_Bylaws_12-16-2016.pdf; Tim Harper, Bipartisan Policy Center, "Florida Joins the ERIC Club and Brings 14 Million New Eligible Voters," March 20, 2018, https://bipartisanpolicy.org/blog/florida-joins-the-eric-club-and-brings-14-million-new-eligible-voters/. Kentucky informed the Brennan Center in June 2018 that the state would soon be joining ERIC, and agreed to use ERIC data for voter list maintenance in court settlement. Jared Dearing (Executive Director, State Board of Elections), interview by Brennan Center for Justice, June 14, 2018; Judicial Watch, Inc. v. Grimes, 3:17-cv-00094, filed November 14, 2017 (E.D. Ky).
- 93 See, e.g., Matt Dietrich (Public Information Officer, Illinois State Board of Elections), interview by Brennan Center for Justice, May 8, 2018; Wayne Thorley (Deputy Secretary of State for Elections, Nevada Secretary of State) and Justus Wendland (HAVA Administrator, Nevada Secretary of State), interview by Brennan Center for Justice, May 18, 2018; see also Colo. Rev. Stat. § 1-2-605(7).
- 94 For example, Alabama credited ERIC with helping to increase voter registration in the state. John Bennett (Deputy Chief of Staff/Communications Director, Alabama Secretary of State), interview by Brennan Center for Justice, June 15, 2018.
- 95 Gary Bland and Barry C. Burden, Electronic Registration Information Center (ERIC) Stage 1 Evaluation (RTI International, December 2013), 1, https://www.rti.org/sites/default/files/resources/eric_stage1report_pewfinal_12-3-13. pdf. In ERIC's first year of operation, "ERIC states showed a net improvement in new registration of 0.87 percentage points over non-ERIC states."
- 96 Roger Stitt (Voter Registration Manager of Operations, Maryland State Board of Elections), interview by Brennan Center for Justice, May 8, 2018; Kyle Thomas (Director, Voting and Registration Systems, Illinois State Board of Elections), interview by Brennan Center for Justice, May 10, 2018.
- 97 Kyle Thomas (Director, Voting and Registration Systems, Illinois State Board of Elections), interview by Brennan Center for Justice, May 10, 2018.
- 98 Memorandum from Meagan Wolfe, Interim Administrator (Prepared by Sarah Whitt, WisVote IT Lead, and Jodi Kitts, WisVote Specialist) to Wisconsin Election Commission Members, May 24, 2018, provided to Brennan Cen-

- ter by Wisconsin Elections Commission (on file with Brennan Center). Wisconsin implemented the supplemental poll lists after some voters experienced problems at a February 2018 election. Through the use of the supplemental poll lists, these voters were able to reactivate their registrations at the polls and vote, rather than having to re-register. Sarah Whitt (WisVote Functional Lead, Wisconsin Elections Commission), interview by Brennan Center for Justice, June 4, 2018.
- 99 Act of May 18, 2006, 2006 Va. Laws Ch. 940 (S.B. 313), § 1 (codified as amended at Va. Code Ann. §§ 24.2-404 & 24.2-427); Act of June 11, 1997, 1997 Tex. Sess. Law. Serv. Ch. 640 (H.B. 1645), § 1 (codified as amended at Tex. Elec. Code Ann. § 16.0332).
- 100 Act of Apr. 30, 2009, 2009 Georgia Laws Act 86 (H.B. 549), § 1 (amending Ga. Code Ann. § 21-2-231, to require removal of registration of every person that declined jury duty based on noncitizenship); Act of May 5, 2017, Act 2017 (87 G.A.) ch. 110, H.F. 516, § 4 (amending Iowa Code Ann. § 48A.30 to require cancelation of voter registration of every person that submits documentation to prove noncitizenship for purpose of disqualifying themselves from jury duty); Act of Apr. 1, 2010, 2010 Minn. Sess. Law Serv. Ch. 201 (H.F. 3108), § 12 (adding Minn. Stat. Ann. § 201.158, which requires county auditors to challenge the registration of every registered voter who is identified as a noncitizen by the commissioner of public safety) (later repealed and re-codified as amended at Minn. Stat. Ann. § 201.145); Act of May 23, 2011, 2011 Tennessee Laws Pub. Ch. 235 (S.B. 352), § 1 (adding Tenn. Code. Ann. § 2-2-141, requiring coordinator of elections to begin removal proceedings for registered voters identified as noncitizens in the Department of Safety database).
- 101 Janelle Ross, "Voter Roll Purges Could Spread to At Least 12 States," HuffPost, July 31, 2012, https://www.huffingtonpost.com/2012/07/31/voter-roll-purge_n_1721192.html.
- 102 "About SAVE," U.S. Citizenship and Immigration Services, last modified September 8, 2016, https://www.uscis.
- 103 "SAVE Verification Process," U.S. Citizenship and Immigration Services, last modified June 15, 2016, https://www. uscis.gov/save/about-save/verification-process; Edgardo Cortes and Liz Howard (Virginia State Board of Elections), interview by Brennan Center for Justice, August 9, 2017.
- 104 Minn Stat, Ann. § 201.145; Tenn. Code Ann. § 2-2-141; Va. Code Ann. § 24.2-427.
- 105 See Marc Levy, "State Disputes Claim 100K Noncitizens Registered to Vote," AP News, March 1, 2018, https:// www.apnews.com/033c89a4d0d646d386a63117c0c72a11. Relatedly, a Wyoming official told us that when the state investigated a list of potential noncitizens produced from state Department of Transportation records, the state did not determine that there were any noncitizens on the rolls and found that many purported noncitizens had subsequently naturalized and were thus eligible to vote. Jennifer Trabing (Election Policy and Planning Analyst, Elections Division, Wyoming Secretary of State's Office), interview by Brennan Center for Justice, May 9, 2018.
- 106 Va. Code Ann. § 24.2-410.1; Roger Stitt (Voter Registration Manager of Operations, Maryland State Board of Elections), interview by Brennan Center for Justice, May 8, 2018.
- 107 Christopher Famighetti, Douglas Keith, and Myrna Pérez, Noncitizen Voting: The Missing Millions (New York: Brennan Center for Justice, May 2017), https://www.brennancenter.org/sites/default/files/publications/2017_NoncitizenVoting_Final.pdf ("Other times, noted one administrator, a citizen will forget to check the 'citizen' box when filling out a driver's license form and that will trigger a process which could end in a citizen's registration being canceled, and also artificially inflate the number of alleged noncitizens who are on the registration rolls.").
- 108 Ga. Code Ann. § 21-2-231; La. Stat. Ann. § 18:178; Tex. Elec. Code Ann. § 16.0332.
- 109 Christopher Famighetti, Douglas Keith, and Myrna Pérez, Noncitizen Voting: The Missing Millions (New York: Brennan Center for Justice, May 2017), https://www.brennancenter.org/sites/default/files/publications/2017_NoncitizenVoting_Final.pdf ("Several interviewees described how eligible Americans sometimes check a box on a jury service form claiming not to be citizens because they do not want to serve on the jury. One way for people to get out of jury duty is they can say they're a noncitizen and fill out a card saying they're not a citizen,' explained Jacquelyn Callanen, Elections Administrator in Bexar County, Texas.")
- 110 U.S. Student Ass'n Found. v. Land, 2:08-CV-14019, filed September 17, 2008 (E.D. Mich).

- 111 "Common Cause of Colorado, et al. v. Buescher," Brennan Center for Justice, last modified January 22, 2010, https://www.brennancenter.org/legal-work/common-cause-colorado-et-al-v-buescher.
- 112 Arcia v. Fla. Sec'y of State, 772 F.3d 1335, 1343-48 (11th Cir. 2014).
- 113 Adam Gitlin and Wendy Wesier, The Justice Department's Voter Fraud Scandal: Lessons (New York: Brennan Center for Justice, January 2017), https://www.brennancenter.org/sites/default/files/publications/Justice_Department_Voter_Fraud_Scandal_Lessons.pdf.
- 114 Compare Judicial Watch, Inc. v. Logan, 2:17-cv-08948, filed December 13, 2017 (C.D. Cal.), Judicial Watch, Inc. v. Grimes, 3:17-cv-00094, filed November 14, 2017 (E.D. Ky.); Voter Integrity Project NC, Inc. v. Wake Cty. Bd. of Elections, 5:16-cv-00683, filed July 18, 2016 (E.D.N.C.); Bellitto v. Snipes, 0:16-cv-61474, filed June 27, 2016 (S.D. Fla.); Va. Voter's Alliance, Inc. v. Leider, 1:16-cv-00394, filed April 7, 2016 (E.D. Va.); American Civil Rights Union v. Philadelphia City Commissioners, 2:16-cv-01507, filed April 4, 2016 (E.D. Pa.); American Civil Rights Union v. Rodriguez, 7:16-cv-00103, filed March 4, 2016 (S.D. Tex.); American Civil Rights Union v. Noxubee Cty., 3:15-cv-00815, filed November 12, 2015 (S.D. Miss.); American Civil Rights Union v. Clarke Cty., 2:15-cv-00101, filed July 27, 2015 (S.D. Miss.); American Civil Rights Union v. Martinez-Rivera, 2:14-cv-00026, filed March 27, 2014 (W.D. Tex.); American Civil Rights Union v. McDonald, 2:14-cv-00012, filed Jan. 27, 2014 (W.D. Tex.); True the Vote v. Stewart, 1:13-cv-03369, filed December 12, 2013 (D. Colo) (voluntarily dismissed); True the Vote v. Wintz 1:13-cv-03368, filed December 12, 2013 (D. Colo) (voluntarily dismissed); American Civil Rights Union v. Jefferson Davis Cty., 2:13-cv-00087, filed April 26, 2013 (S.D. Miss.); American Civil Rights Union v. Walthall Cty., 2:13-cv-00086, filed April 26, 2013 (S.D. Miss.); Judicial Watch, Inc. v. Husted, 2:12cv-00792, filed August 30, 2012 (S.D. Ohio); Judicial Watch, Inc. v. King, 1:12-cv-00800, filed June 11, 2012 (S.D. Ind.), with Common Cause Indiana v. Lawson, 1:17-cv-03963, filed October 27, 2017 (S.D. Ind.); Indiana NAACP v. Lawson, 1:17-cv-02897, filed August 23, 2017 (S.D. Ind.); N.C. State Conf. of the NAACP v. N.C. State Bd. of Elections, 1:16-cv-1274, filed October 31, 2016 (M.D.N.C.); Husted v. A. Philip Randolph Institute, 2:16-cv-00303, filed April 6, 2016 (S.D. Ohio); Common Cause v. Kemp, 1:16-cv-00452, filed February 10, 2016 (N.D. Ga.); Ga. State Conf. of the NAACP v. Hancock Cty. Bd. of Elections and Registration, 5:15-cv-00414, filed November 3, 2015 (M.D. Ga.); The Democratic Party of Va. v. Va. State Bd. of Elections, 1:13-cv-1218, filed October 1, 2013 (E.D. Va.); LULAC v. Harris Cty., 4:12-cv-03035, filed October 11, 2012 (S.D. Tex.); Colón-Marrero v. Conty-Pérez, 12-cv-1749, filed September 12, 2012 (D.C.P.R.); Arcia v. Detzner, 1:12-cv-22282, filed June 19, 2012 (S.D. Fla.); Mi Familia Vota Education Fund v. Detzner, 8:12-cv-1294, filed June 8, 2012 (M.D. Fla.); Janis v. Nelson, 5:09-cv-05019, filed on February 18, 2009 (D.S.D.); Common Cause of Colorado v. Buescher, 1:08-cv-02321, filed October 25, 2008 (D. Colo.); Mont. Democratic Party v. Eaton, 9:08-cv-00141, filed October 6, 2008 (D. Mont.); U.S. Student Ass'n Found. v. Land, 2:08-cv-14019, filed September 17, 2008 (E.D. Mich).
- 115 Judicial Watch, Inc. v. Grimes, 3:17-cv-00094, filed November 14, 2017 (E.D. Ky.); Voter Integrity Project NC, Inc. v. Wake County Board of Elections, 5:16-cv-00683, filed July 18, 2016 (E.D.N.C.); American Civil Rights Union v. Noxubee County, 3:15-cv-00815, filed November 12, 2015 (S.D. Miss.); American Civil Rights Union v. Clarke County, 2:15-cv-00101, filed July 27, 2015 (S.D. Miss.); American Civil Rights Union v. Martinez-Rivera, 2:14-cv-00026, filed March 27, 2014 (W.D. Tex.); American Civil Rights Union v. McDonald, 2:14-cv-00012, filed Jan. 27, 2014 (W.D. Tex.); American Civil Rights Union v. Jefferson Davis County, 2:13-cv-00087, filed April 26, 2013 (S.D. Miss.); American Civil Rights Union v. Walthall County, 2:13-cv-00086, filed April 26, 2013 (S.D. Miss.); Judicial Watch, Inc. v. Husted, 2:12-cv-00792, filed August 30, 2012 (S.D. Ohio).
- 116 Willie M. Miller (Noxubee County District 4 Election Commissioner), interview by Brennan Center for Justice, May 29, 2018.
- 117 American Civil Rights Union v. Rodriguez, 7:16-cv-00103, filed Mar. 4, 2016 (S.D. Tex.).
- 118 Judicial Watch, Inc. v. Logan, 2:17-cv-08948, filed December 13, 2017 (C.D. Cal.).
- 119 American Civil Rights Union v. Noxubee County, 3:15-cv-00815, filed November 12, 2015 (S.D. Miss.).
- 120 Sylvester Tate (Noxubee County District 1 Election Commissioner) and Willie Miller (Noxubee County District 4 Election Commissioner), interview by Brennan Center for Justice, May 29, 2018.
- 121 Judicial Watch, Inc. v. King, 1:12-CV-00800, filed June 11, 2012 (S.D. Ind.).

- 122 Indiana Secretary of State, "Hoosier Voters to Receive Postcard with Election Information in the Mail," news release, June 19, 2014, goo.gl/Xy2cbp; see also Max Greenwood, "Indiana Purges Nearly 500,000 from Voter Rolls," The Hill, April 20, 2017, http://thehill.com/blogs/ballot-box/329659-indiana-purges-nearly-half-a-million-from-voterrolls; Indiana Secretary of State, "Indiana Prepares for Future Elections by Cleaning Up Its Voter Roll," news release, April 18, 2017, https://goo.gl/9dFzps.
- 123 Judicial Watch, "Judicial Watch, True the Vote Historic Indiana Lawsuit Forces Statewide Clean-Up of Voter Registration Lists, Permanent Changes in Election Law Procedures," news release, August 7, 2014, https://www.judicialwatch.org/press-room/press-releases/judicial-watch-true-vote-historic-indiana-lawsuit-forces-statewide-clean-voter-registration-lists-permanent-changes-election-law-procedures/.
- 124 Public Interest Legal Foundation, Alien Invasion in Virginia, September 2016, https://publicinterestlegal.org/files/ Report_Alien-Invasion-in-Virginia.pdf; see also Public Interest Legal Foundation, Alien Invasion II, May 2017, https://publicinterestlegal.org/files/Alien-Invasion-II-FINAL.pdf.
- 125 Christopher Famighetti, Douglas Keith, and Myrna Pérez, Noncitizen Voting: The Missing Millions (New York: Brennan Center for Justice, May 2017), https://www.brennancenter.org/sites/default/files/publications/2017_NoncitizenVoting_Final.pdf.
- 126 These noncitizen removal figures are derived from Virginia's annual list maintenance reports. Virginia Department of Elections, Annual List Maintenance Report, 2015, https://www.elections.virginia.gov/Files/maintenance-reports/2015SBEListMaintenancereport.pdf; Virginia Department of Elections, Annual List Maintenance Report, 2016, https://www.elections.virginia.gov/Files/maintenance-reports/2016SBEListMaintenancereport.pdf; Virginia Department of Elections, Annual List Maintenance Report, 2017, https://www.elections.virginia.gov/Files/maintenance-reports/2017SBEListMaintenancereport.pdf.
- 127 League of United Latin American Citizens of Richmond v. Public Interest Legal Foundation 1:18-cv-00432-LO-IDD V.A.E.D, https://www.southerncoalition.org/wp-content/uploads/2017/01/LULAC-of-Richmond-v.-PILE pdf. See also Pema Levy, "Member of Trump's Voter Fraud Commission Sued for Voter Intimidation," Mother Jones, April 12, 2018, https://www.motherjones.com/politics/2018/04/member-of-trumps-voter-fraud-commission-sued-for-voter-intimidation/; Pema Levy, "Trump Election Commissioner Used Dubious Data to Allege an 'Alien Invasion," Mother Jones, July 18, 2017, https://www.motherjones.com/politics/2017/07/trump-election-commissioner-used-dubious-data-to-allege-an-alien-invasion/; Stephen Dinan, "American Kicked Off Virginia Voter Rolls as 'Declared Non-Citizen,'" The Washington Times, June 18, 2017, https://www.washingtontimes.com/ news/2017/jun/18/maureen-erickson-kicked-off-virginia-voting-rolls-/.
- 128 See supra text box on challenges.
- 129 Alaska, California, Colorado, District of Columbia, Georgia, Illinois, Maryland, New Jersey, Oregon, Rhode Island, Vermont, Washington, West Virginia. For a detailed description of the status of implementation of automatic voter registration in these states see "Automatic Voter Registration," Brennan Center for Justice, last modified April 17, 2018, https://www.brennancenter.org/analysis/automatic-voter-registration.

Appendix A: Federal Statutory Regulation of Voter Purge Practices

Purge practices are regulated by a combination of federal and state law. Below is a summary of federal statutes:

VOTING RIGHTS ACT

As a general matter, the Voting Rights Act (VRA), 52 U.S.C. § 10301 et seq, prohibits discrimination in voting. The Supreme Court has held that this prohibition applies to purges. Prior to 2013, certain jurisdictions were required to seek federal preclearance of purge practices before they were implemented.2 However, the formula by which these jurisdictions were covered was invalidated in Shelby County v. Holder,3 effectively ending preclearance until Congress issues a new formula. Purge practices must still comply with Section 2 of the VRA, which bans discriminatory voting practices.4

NATIONAL VOTER REGISTRATION ACT

The National Voter Registration Act (NVRA) is the most comprehensive federal law regulating voter purges and applies to 44 states. Six states (Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming) are exempt because they had election day registration or no voter registration as of the date provided by the NVRA. These exemptions make sense because purge consequences are much less grave in a state that permits anyone eligible who is not on the registration rolls to register and to vote on Election Day (or does not require them to register in order to vote).

The law discusses five categories of removal from voter rolls: (1) request of the registrant; (2) disenfranchising criminal conviction; (3) mental incapacity; (4) death; and (5) change in residence. The NVRA sets forth a series of specific requirements that apply to purges of registrants believed to have changed residence.6

The law also contains a series of additional proscriptions on state practices. For example, it provides that list maintenance must be uniform, nondiscriminatory, and in accordance with the Voting Rights Act. 7 It also prohibits systematic voter purges (those programs that remove groups of voters at once) within 90 days of a federal election.8 The Act also has provisions that apply on Election Day if a voter has changed address. Voters who have moved within a jurisdiction are permitted to vote at either their new or old polling place (states get to choose), while purged voters — mistakenly believed to have moved — who show up on Election Day have the right to correct the error and cast a ballot that will count.

HELP AMERICA VOTE ACT

The Help America Vote Act of 2002 (HAVA) reaffirms the requirements of the NVRA and contains additional regulations for voter list maintenance.¹⁰ For example, HAVA requires states to create statewide voter registration databases with unique identifiers for registered voters.¹¹ The law also requires states to attempt to verify the validity of information submitted by voter registration applicants.¹² HAVA also ensures that certain voters, including those who do not appear on poll books, are permitted to vote provisional ballots at minimum.¹³

- Young v. Fordice, 520 U.S. 273 (1997). 52 U.S.C. § 10304. 570 U.S.C. 2 (2013).
- 52 U.S.C. § 10301(a) 52 U.S.C. § 20507(a)
- 52 U.S.C. § 20507(a). See 52 U.S.C. § 20507(d)(1). 52 U.S.C. § 20507(b)(1). 52 U.S.C. § 20507(c)(2)(A). 52 U.S.C. § 20507(c). 52 U.S.C. § 20507(c). 52 U.S.C. § 21083(a). 52 U.S.C. § 21083(a)(5)(A). 52 U.S.C. § 21083(a)(5)(B). 52 U.S.C. § 21083(a)(5)(B).

Appendix B: What Explains a Jurisdiction's Purge Rate?

	Removal Rate	Removal Rate
D (Preclearance Condition Lifted)	0.0150*** (0.00166)	
D (Preclearance Condition Lifted) * D (2014)	3 3 3 3 3	0.0240*** (0.00207)
D (Preclearance Condition Lifted) * D (2016)		0.00605*** (0.00193)
Median Age	-0.000600*** (0.000168)	-0.000601*** (0.000169)
Percent of Residents Who Moved in Past Year	0.0582*** (0.0124)	0.0578*** (0.0124)
Log (Median Income)	0.00639** (0.00283)	0.00625** (0.00283)
Log (Voting Age Population)	-0.000184*** (0.000608)	-0.000182*** (0.000608)
Log (Percent Black)	-0.00124*** (0.000362)	-0.00125*** (0.000362)
D (Secretary of State Appointed by Governor)	0.00634*** (0.00187)	0.00636*** (0.00187)
D (Secretary of State Appointed by Legislature)	0.0168*** (0.00202)	0.0168*** (0.00202)
D (State Legislature Controlled by Republicans)	0.0138*** (0.00122)	0.0138*** (0.00122)
Constant	0.0339 (0.0293)	0.0353 (0.0293)
Observations R-squared	9,057 0.069	9,057 0.073
Robust standard errors in parentheses, clustered by county. Year dummies not shown. *** p<0.01, ** p<0.05, * p<0.1 Notes: Data are from the 2010, 2012, 2014, and 2016 reporting periods. Includes jurisdictions that reported in each time period. Sources: U.S. Election Assistance Commission, U.S. Census Bureau: American Community Survey 5-Year Estimates, National Conference of State Legislatures		

Appendix C: Relationship Between Purge Rates and Provisional Ballot Rates

	Provisional Ballot Rate
Removal Rate	0.0177** (0.00697)
Turnout Rate	-0.00553*** (0.00164)
Log (Median Income)	0.00189*** (0.000504)
.og (Percent Black)	-0.000554* (0.000308)
Log (Percent White)	-0.00453*** (0.00132)
D (Implemented Strict Voter ID Requirement)	-0.00314 (0.000406)
Constant	-0.0185*** (0.00523)
Dbservations R-squared	1,854 0.741
Robust standard errors in parentheses, clustered by county. Year and state-level dummies not shown. ***p<0.01, ***p<0.05, **p<0.1 Notes: Data are from the 2010, 2012, 2014, and 2016 reporting periods. Includes jurisdictions covered under Section V of the Voting Rights Act at the time of the Shelby County decision in 2013 that reported in each time period. Sources: U.S. Election Assistance Commission, U.S. Census Bureau: American Community Survey 5-Year Estimates, National Conference of State Legislatures.	

Regression analysis shows that the higher a covered county's purge rate the higher their provisional ballot rate. Each 1 percent increase in removal rates was associated with an additional 1.8 provisional ballots for every 10,000 ballots cast. Although this number is small, the median for these jurisdictions in the 2012 presidential election was fewer than 1 provisional ballot per 10,000 cast. Importantly, this statistically significant relationship holds even after controlling for other sociodemographic factors such as population, turnout rate, racial composition, political orientation, and implementation of strict voter ID requirements.

As with any statistical study of this sort, it is impossible to determine whether the increase in purge rates in any particular county is responsible for an increase in provisional ballots. However, a closer look at the numbers in a few jurisdictions suggests how this relationship might work.

Shelby County, Alabama, the jurisdiction at issue in *Shelby County v. Holder*, is illustrative. After preclearance ended in 2013, the county's removal rate more than doubled, from 5.0 percent to 10.4 percent. In 2014, more than 18 percent of the county's voters were purged. In 2012, the provisional ballot rate was 0.15 percent, virtually identical to the national average of 0.16 percent. Following years in which the county purged an average of 10 percent of voters, the provisional ballot rate tripled to 0.45 percent.

Montgomery County, Alabama, also had to seek federal preclearance for purges in the past. From 2009 to 2012, when preclearance was required, the average two-year removal rate was 4.7 percent, well below the national average. But after

Shelby County effectively ended preclearance, the removal rates increased dramatically, nearly tripling to 12.0 percent. Montgomery County's numbers are similar to Shelby County's. In the two years ending in 2014, a period covering the cessation of preclearance, Montgomery County had a massive purge in which 21 percent of voters were removed. Subsequently, the provisional ballot rate shot up from 0.31 percent in the 2012 presidential election to more than 1 percent in the 2016 election.

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Florida, Georgia, North Carolina Still Purging Voters at High Rates | Brennan Center for Justice



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Florida, Georgia, **North Carolina Still Purging Voters at High Rates**

Voter purges increased significantly in the 2016 election cycle. New numbers from three states offer cause for alarm about 2018, too.







 $Earlier this summer, when the Brennan Center released a {\it {\bf report}} \ examining \ voter \ purge \ data \ through \ 2016, we$ found that four million more people were purged from the rolls between the federal elections of 2014 and 2016 than between 2006 and 2008. Much of that increase came from states that were previously required under the Voting Rights Act (VRA) to get election changes cleared in advance, before that part of the law was eviscerated by the Supreme Court in 2013.

Although comparable data for the two years ending in 2018 won't be available until early next year, we were able to use different data sources to figure out how many voters have been purged over the past two years in three states we had studied - Florida, Georgia, and North Carolina. A preliminary analysis supports our initial alarm over the action of the control ofpurge processes in these three states, showing that they continued to have high purge rates.

Purges in and of themselves aren't bad. They're commonly used to clean up voter lists when someone has moved, passed away, and more. But too often, names identified for removal are determined by faulty criteria that wrongly 6/0/202

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suggests a voter be deleted from the rolls. When flawed, the process threatens to silence eligible voters on Election Day-especially in states where purge rates are high.

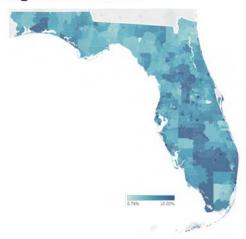
Florida

From November 2008 to November 2010, the median purge rate in the Sunshine State was 0.2 percent. That number jumped to 3.6 percent from 2012 to 2014. And new data show it's jumped again: **Between December 2016 and September 2018, Florida has purged more than 7 percent of its voters**.

Not only can we tell that purges have increased — we also know where the biggest purges are happening. Hardee, Hendry, Palm Beach, and Okaloosa counties have each purged more than 10 percent of their voters in the last two years.

Dade and Broward counties also have a number of zip codes that purged at higher rates. Some of those zip codes, however, include military bases or college campuses, which one would expect to have higher purge rates because of the transient nature of the population and the established processes for removing voters who have moved.

Purge Rates in Florida



*Purge rates from December 2016 through September 2018. Source: Florida Board of Elections.

Georgia

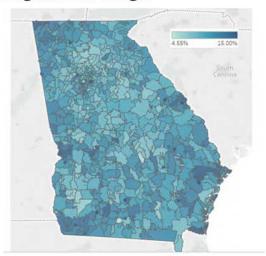
Between 2010 and 2014 — a period of time that covers before and after the Supreme Court's decision on the Voting Rights Act — Georgia's median purge rate increased from 6.7 percent to 10.7 percent. Our analysis of the C16 https://www.brennancenter.org/our-work/analysis-opinion/florida-georgia-north-carolina-still-purging-voters-high-rates

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data shows that the state continues to have a high purge rate: Over the past two years, the state has purged 10.6 percent of voters. Nonwhite voters were slightly overrepresented among those purged when compared to the total population breakdown.

Ninety-seven of the state's 159 counties purged more than 10 percent of their voters in the last two years. Four counties (Chattahoochee, Liberty, Dade, and Camden) are particular outliers, each purging at least 15 percent of their voters. At a more granular level, 430 of the 781 zip codes have purged more than 10 percent of their voters since 2016. This rebuts any speculation that the VRA's preclearance provision may have blocked reasonable list maintenance practices. "Catching up" might have seemed like an excusable reason for increased rates in the first purge cycle without pre-clearance (2014-2016), but Georgia's purge rates have not returned to pre-2013 levels in the five years since the decision was handed down.

Purge Rates in Georgia



*Purge rates from September 7, 2016 through September 14, 2018. Source: Georgia Board of Elections.

North Carolina

North Carolina's purge rates fall in between Florida and Georgia. Forty of its one hundred counties were covered under Section V of the Voting Rights Act at the time of the Shelby County v. Holder decision in 2013. The average purge rate in the state increased modestly between 2010 to 2014, from 8.0 to 8.8 percent. Like in Georgia and Florida, however, this didn't represent a temporary increase, but rather has been sustained over the past few \$\$C37\$\$ https://www.brennancenter.org/our-work/analysis-opinion/florida-georgia-north-carolina-still-purging-voters-high-rates

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years. Between September of 2016 and May of 2018 (the latest date data is available), the state purged 11.7 percent of its voter rolls. Just 19 of its counties purged fewer than 10 percent of their voters, and no county $purged fewer than 8\ percent.\ These\ purges\ have\ been\ especially\ troubling\ for\ voters\ of\ color-in\ 90\ out\ of\ 100$ counties, voters of color were over-represented among the purged group.

Purge Rates in North Carolina



*Purge rates from September 7, 2016 through September 14, 2018. Source: Georgia Board of Elections.

 $To \ voters \ living \ in \ these \ three \ states-and \ to \ voters \ around \ the \ country: Check \ your \ registration \ status \ to \ make$ sure that you're still on the rolls. If you are not registered, and think you should be, call your local election official and find out why. There is still time to register in many states if you have a problem.

*Correction: This post originally said Harris County, Florida was one of the counties that had purged more than ten $percent\ of\ its\ voters.\ In\ fact,\ it\ was\ Hardee\ County.\ There\ is\ no\ Harris\ County\ in\ Florida.$

Photo: Joe Skipper/Getty Images

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Voter Purge Rates Remain High, Analysis Finds

New data reveal that counties with a history of voter discrimination have continued purging people from the rolls at elevated rates.



LAST UPDATED: August 21, 2019
PUBLISHED: August 1, 2019



Using data released by the federal Election Assistance Commission (EAC) in June, a new Brennan Center analysis has found that between 2016 and 2018, counties with a history of voter discrimination have continued purging people from the rolls at much higher rates than other counties.

This phenomenon began after the Supreme Court's 2013 ruling in Shelby County v. Holder, a decision that severely weakened the protections of the Voting Rights Act of 1965. The Brennan Center first identified this troubling voter purge trend in a major report released in July 2018.

Before the Shelby County decision, Section 5 of the Voting Rights Act required jurisdictions with a history of discrimination to submit proposed changes in voting procedures to the Department of Justice or a federal court for approval, a process known as "preclearance."

After analyzing the 2019 EAC data, we found:

6/9/2021

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At least 17 million voters were purged nationwide between 2016 and 2018, similar to the number we saw between 2014 and 2016, but considerably higher than we saw between 2006 and 2008; The median purge rate over the 2016-2018 period in jurisdictions previously subject to preclearance was 40 percent higher than the purge rate in jurisdictions that were not covered by Section 5 of the Voting Rights Act; If purge rates in the counties that were covered by Section 5 were the same as the rates in non-Section 5 $\,$ counties, as many as 1.1 million fewer individuals would have been removed from voter rolls between 2016 and 2018

To be clear, we report the total numbers of voters removed by a county for any reason. Election officials purge voters they believe are ineligible for a variety of reasons, including death and moving outside the jurisdiction. This analysis does not assess how many voters were improperly purged.

Methodology

Every two years, the EAC administers a survey to election officials around the country known as the Election Administration and Voting Survey (EAVS). The survey includes a host of questions about the state of voter registration in the jurisdiction and the experience of the most recent federal election. Jurisdictions are requested to report on information including how many new registrations occurred between the federal elections, the number of ballots cast on election day, and the number of polling sites that were open on election day. The jurisdictions are also asked to report how many voters were removed from the registration rolls — or "purged" over the two-year period that preceded the most recent federal election. These data formed the backbone of our statistical analysis in last year's report, and we use them again here.

All election jurisdictions in the country are asked to respond to the EAVS survey every two years, but in 2018, some in Alabama and Texas did not report their purge numbers. Although this makes the data less than ideal, the EAC survey remains the best source for nationwide information on voter purges.

We calculate purge rates as the number of voters removed between 2016 and 2018 divided by the sum of total voters registered as of the 2018 election and the number removed. In other words,

$$Purge\ Rate = \frac{Number\ Purged}{Number\ Purged + Total\ Number\ Registered\ in\ 2018}$$

As with our report last year, we report the median purge rate when discussing aggregate purge rates. We use the median because of the nature of the data; using the mean purge rate would leave our analysis more susceptible to outliers.

Why Purges Can Be Problematic

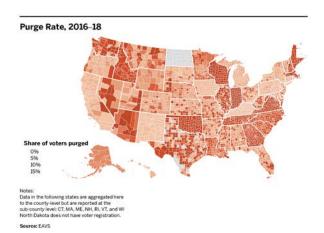
To be sure, there are many good reasons for a voter to be purged. For instance, if a voter moves from Georgia to New York, they are no longer eligible to cast a ballot in the Peach State. As such, they should be removed from Georgia's voter rolls. Similarly, voters who have passed away should be removed from the rolls. Reasonable voter list maintenance ensures voter rolls remain up to date.

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Problems arise when states remove voters who are still eligible to vote. States rely on faulty data that purport to show that a voter has moved to another state. Oftentimes, these data get people mixed up. In big states like California and Texas, multiple individuals can have the same name and date of birth, making it hard to be sure that the right voter is being purged when perfect data are unavailable. Troublingly, minority voters are more likely to share names than white voters, potentially exposing them to a greater risk of being purged. Voters often do not realize they have been purged until they try to cast a ballot on Election Day — after it's already too late. If those voters live in a state without election day registration, they are often prevented from participating in that election.

Approximately 17 Million Purged Between 2016 and 2018

The map below shows the purge rates for the counties that reported their information to the EAC. Some counties did not report their information. Because North Dakota does not have voter registration, it does not have a voter purge rate. Therefore, the state is grayed out below to mirror the non-reporting jurisdictions in Texas and



In our report last year, we noted that 16 million voters were purged between the federal elections of 2014 and 2016, and that this was almost 4 million more names purged from the rolls than between 2006 and 2008.

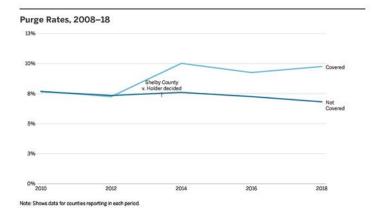
The latest data from the EAC shows that between the presidential election in 2016 and the 2018 midterms, more than 17 million voters were purged. While this number is higher than what we reported last year, it is likely due to the fact that more jurisdictions reported their data in 2018, pushing the reported total higher. As the figure below demonstrates, the median purge rate among counties that consistently report their data has remained largely the 6/9/2021

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Purge Rates in Section 5 Jurisdictions Continue to Be Higher

Prior to Shelby County, jurisdictions covered under Section 5 of the Voting Rights Act collectively had purge rates right in line with the rest of the country. A major finding in last year's report was that jurisdictions that used to have federal oversight over their election practices began to purge more voters after they no longer had to pre $clear\ proposed\ election\ changes.\ The\ 2016-2018\ EAC\ data\ shows\ a\ slightly\ wider\ gap\ in\ purge\ rates\ between\ the$ formerly covered jurisdictions and the rest of the country than existed between 2014 and 2016.

This is of particular interest because this continued-- and even widening-- gap debunks possible claims thatcertain states would experience a one-time jump when free of federal oversight, but then return to rates in line with the rest of the country. They haven't.



The median purge rate across the country in counties that were never covered by Section 5 of the Voting Rights Act decreased slightly between 2016 and 2018. In contrast, the purge rates ticked up in parts of the country that were covered at the time of the Shelby County decision. We found sustained higher purge rates in parts of the country that have a demonstrated history of discrimination in voting. If these formerly covered jurisdictions that $reported their data \ each \ year \ had \ purged \ voters \ at \ rates \ consistent \ with \ the \ rest \ of \ the \ country - \ which \ they \ did$ before the Shelby County decision — they would have purged 1.1 million fewer voters between 2016 and 2018. In our report last year, we noted that Shelby County was likely responsible for the purge of 2 million voters over four years in these counties. The effect of the Supreme Court's 2013 decision has not abated.

Next Steps

Source: EAVS

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As the country prepares for the 2020 election, election administrators should take steps to ensure that every eligible American can cast a ballot next November. Election administrators must be transparent about how they are deciding what names to remove from the rolls. They must be diligent in their efforts to avoid erroneously purging voters. And they should push for reforms like automatic voter registration and election day registration, which keep voters' registration records up to date.

Election day is often too late to discover that a person has been wrongfully purged.

 $\textbf{\textit{Editor's note:}} \ A n \ earlier \ version \ of \ this \ analysis \ reported \ aggregated \ statewide \ purge \ rates. \ We \ have \ since \ learned$ that at least one state self-reported the data in a way that complicates a statewide aggregation. As such, we are no longer reporting any statewide numbers. That does not change the number of people the counties self-reported as removing.

(Image: Alex Wong/Getty)

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APPENDIX A

TABLE A. AVERAGE WAIT TIMES BY STATE, 2008 AND 2012

	2008		2012			2008		2012	
State	Wait	95% m.o.e.°	Wait	95% m.o.e.a		Wait	95% m.o.e.a	Wait	95% m.o.e.
Alabama	21	5.5	10	2,4	Montana	6	2.1	12	5.2
Alaska	5	1.7	3	1.2	Nebraska	10	3.2	4	1.1
Arizona	15	4.5	8	2.9	Nevada	10	2.4	8	1.3
Arkansas	21	4.7	13	2.4	New Hampshire	6	1.7	11	2.2
California	11	2.6	7	0.8	New Jersey	7	1.5	5	0.7
Colorado	10	4.1	8	2.7	New Mexico	12	2.9	6	1.4
Connecticut	10	23.	7	1.6	New York	9	1.3	12	1,5
Delaware	12	3.2	4	1	North Carolina	19	2.9	13	1.4
D.C.	28	9.8	37	7.5	North Dakota	5	1.9	10	7.5
Florida	31	3.5	39	4	Ohio	19	2.7	10	1.3
Georgia	40	5.8	16	2	Oklahoma	22	4.9	17	2.7
Hawaii	5	1.6	7	2	Oregon	na	na	na ^r	na
Idaho	6	1,8	8	1.9	Pennsylvania	14	1.7	8	1
Illinois	12	1.8	12	2.2	Rhode Island	5	2	11	2.2
Indiana	22	3.6	13	2.3	South Carolina	56	7.7	2.5	3.8
Iowa	5	1.5	6	1.8	South Dakota	4	1.7	3	1.2
Kansas	10	2.3	11	2	Tennessee	19	3.6	13	1.7
Kentucky	12	2.6	8	1.5	Texas	13	1.4	11	1.1
Louisiana	16	3.5	16	3	Utah	13	3.3	10	2
Maine	4	1.3	4	1.1	Vermont	2	1.2	2	0.7
Maryland	24	4.3	36	4	Virginia	28	4.6	25	2.5
Massachusetts	6	1,2	7	1.2	Washington	na	na	na	na
Michigan	20	3,5	19	2.3	West Virginia	14	3.4	11	2
Minnesota	9	2	6	1	Wisconsin	8	1.6	8	1.4
Mississippi	11	2.9	7	1.4	Wyoming	5	2	4	1.2
Missouri	20	3.7	11	1.8					

Oregon and Washington are excluded because they are vote-by-mail states.

Source: Cooperative Congressional Election Study (CCES) and the Survey of the Performance of American Elections (SPAE), 2008 and 2012.

"Margin of error."

APPENDIX D

Testimony Submitted by Mimi Marziani, Esq., President of the Texas Civil Rights Project to the



U.S. House of Representatives,

Committee on the Judiciary,

Subcommittee on the Constitution, Civil Rights & Civil Liberties on

Enforcement of the Voting Rights Act in the State of Texas

May 3, 2019 Houston, Texas



INTRODUCTION

It is a great honor to testify before this body, the Subcommittee on the Constitution, Civil Rights and Civil Liberties of the U.S. House of Representatives' Committee on the Judiciary. Thank you for inviting me to share on-the-ground insights about the state of voting rights in Texas.

For my testimony this morning, I draw from my work as President of the Texas Civil Rights Project ("TCRP"), and appear on behalf of that organization. I also bring my experience as Chairwoman of the Texas State Advisory Committee to the U.S. Commission on Civil Rights ("Texas SAC"), as an adjunct professor of "Election Law and Policy" at the University of Texas School of Law, and from my decade-long career working to advance voting rights and election reform.

I have been asked to identify voting law changes in Texas that have harmed voters of color and voters who speak a language other than English since the U.S. Supreme Court's 2013 decision in *Shelby County v. Holder* rendered Section 5 of the Voting Rights Act inoperable. That decision lifted preclearance requirements from Texas, permitting our state to enact voting law changes without federal oversight. I understand that other members of my panel will discuss Texas' discriminatory photo ID law and racially gerrymandered statewide maps, laws that were initially rejected by federal courts pursuant to Section 5 but enforced by the State after the *Shelby County* ruling. These discriminatory acts, as documented by voluminous litigation records and factual findings by federal courts, are clear and egregious examples of the need for the protection that Section 5 provided. I thank my fellow panelists for sharing this information.

I focus my testimony elsewhere, on newer state laws and policies that create additional barriers to voting and are almost certainly borne disproportionately by voters of color. Unfortunately, without the preclearance process, the burden of proving this disparate burden falls upon targeted communities themselves, as well as organizations like TCRP that serve Texas communities. Such proof often requires access to data and other information that is held by state actors and can be

¹ We are Texas lawyers for Texas communities, serving the rising movement for equality and justice. Our Voting Rights Program tackles the systemic issues that suppress democratic participation in Texas—from voter registration to the moment when an individual casts their ballot. Through litigation and advocacy, TCRP fights to turn the tide on the Texas' abysmal voting rights record by removing barriers to voter registration and participation, supporting grassroots voter mobilization efforts and opposing new attempts to suppress voting. Learn more at texascivilrightsproject.org.

² Our committee conducted a study of voting rights in Texas in 2018, including an all-day public hearing in Houston in March 2018. Our findings were published in a report entitled *Voting Rights in Texas* available at https://www.usccr.gov/pubs/2018/07-23-TX-Voting-Rights.pdf.

³ My curriculum vitae has been submitted to the Subcommittee under separate cover.



onerous and expensive—and sometimes, impossible—for members of the public to access and analyze.

Thus, without preclearance, the full impact of the laws and policies I highlight today is not known. I am confident, however, that the data available to TCRP strongly suggests that these measures would have been subjected to heightened scrutiny by any U.S. Attorney General committed to meaningful enforcement of the Voting Rights Act. It's also clear that, in Section 5's absence, Texas lawmakers failed to undertake any meaningful review of the effect these changes would have on persons of color or, worse yet, undertook the changes despite knowing they would have a negatively disparate impact on these communities.

Before we begin, consider an important background fact about Texas: race, age and socioeconomic status are closely correlated. Indeed, the population of Texans under 40 is 35.5% Anglo (meaning, non-Hispanic Caucasian) and 58% Black or Latinx; over 40, those numbers flip to 56.5% Anglo and 38% Black or Latinx. Moreover, the extensive record in the Texas photo ID litigation confirmed that, "African-Americans and Hispanics are more likely than Anglos to be living in poverty because they continue to bear the socioeconomic effects caused by decades of racial discrimination." Accordingly, in Texas, voting changes that disparately impact young people or poor people necessarily also disparately impact people of color. A law or policy that may not target persons of color on its face will discriminate against persons of color in fact if it has the effect of suppressing the voting rights of young or poor people.

HARMS FROM RECENT VOTING LAW CHANGES

Since 2017, at least three state law and policy changes have created additional barriers to voting that are almost certainly borne disproportionately by persons of color:

- · a 2019 policy targeting naturalized citizens to be purged from the voter registration rolls;
- · a 2017 state law eliminating straight ticket voting; and
- a 2017 state law creating a new class of election law "conspiracy" crimes, increasing liabilities for Texans engaged in voter registration drives.

Without the oversight imposed by Section 5, these laws and policies were enacted with no meaningful review of their impact. Post-implementation, the voter purge policy was subject to litigation and the State's policy changed due to a court settlement finalized just days ago. The other

⁴ Veasey v. Perry, 71 F. Supp. 3d 627, 664 (S.D. Tex. 2014).



two laws remain on the books. Their full effects are just now being realized as affected communities weigh their legal options with the best use of their limited resources.

2019 VOTER PURGE

In Texas, as everywhere, election officials have an obligation to remove voters from the rolls if they have moved, died or are otherwise ineligible, but can only do so based upon a careful, uniform, reliable process. On January 25, 2019, the Texas Secretary of State issued an explosive advisory claiming that there are 95,000 people on the voter rolls who indicated that they were not citizens in paperwork submitted to the department of motor vehicles, and that 58,000 of these individuals subsequently voted in at least one election. The Secretary immediately sent lists of these "fraudulent" voters to Texas counties and the Texas Attorney General for investigation and created a media firestorm, fanned by instant cries of "voter fraud" on social media by the President of the United States, Texas' Governor, Texas' Attorney General, and others.



VOTER FRAUD ALERT: The @TXsecofstate discovered approx 95,000 individuals identified by DPS as non-U.S. citizens have a matching voter registration record in TX, approx 58,000 of whom have voted in TX elections. Any illegal vote deprives Americans of their voice.



Marziani Testimony, 3



It became apparent, almost immediately, that the State's process was deeply flawed and in fact erroneously flagged tens of thousands of naturalized citizens. Nearly 30,000 individuals, for instance, had already proven their citizenship to state agencies. In some counties, such as McLennan County, every name on the Secretary of State's list proved erroneous, following investigations by county officials. In Harris County, Texas' largest, roughly 60% of the list was immediately eliminated because the voters had either already proven their citizenship at the department of motor vehicles or had been registered by Harris County officials themselves at naturalization ceremonies.

Litigation ensued within days, including a lawsuit brought by TCRP and other legal advocacy groups on behalf of civic engagement organizations and a targeted voter. A federal judge quickly halted the attempted purge, describing it as "ham-handed" and as exemplifying "the power of government to intimidate the least powerful among us." The court emphasized that the burden was borne by "perfectly legal naturalized Americans" and that "no native born Americans were subjected to such treatment."

The parties settled on April 26, 2019, less than 90 days after the purge was announced. According to the terms of the settlement, the State will rescind its original advisory announcing the purge effort and agree to a new voter database maintenance process that is much more limited in scope. The State has also agreed to provide and maintain information regarding the implementation of the process, which the plaintiffs will monitor. Texas will pay nearly half a million dollars in attorneys fees and litigation costs.

According to Census data, over 87% of Texas's naturalized citizens are people of color—specifically, Black, or of Latinx or Asian origin. Large numbers are, of course, language minorities. At best, the State proceeded with a sloppy, "ham-handed" purge effort despite the obvious disparate impact on persons of color. At worse, the disparate impact was a feature of the program, not a bug. Either way, had Section 5 been in effect, Texas would have been forced to publicly grapple with the racially discriminatory effects of this policy before it threatened the voting rights of tens of thousands of

⁵ TCRP, ACLU of Texas, the national ACLU Voting Rights Project, Demos, and the Lawyers' Committee for Civil Rights Under Law filed the lawsuit against Texas Secretary of State David Whitley and Director of Elections Keith Ingram, as well as local elections officials in eight counties, representing Move Texas Civic Fund, Jolt Initiative, the League of Women Voters of Texas and an individual voter. Two separate lawsuits were filed by Texas LULAC and the Campaign Legal Center and by the Mexican American Legal Defense and Education Fund on behalf of additional community organizations and Texas voters. The cases were consolidated as Texas LULAC v. Whitley, 5:19-cv-00074.

⁶ Order, LULAC v. Whitley, No. 5:19-cv-00074, Dkt. 61 at 1 (Feb. 27, 2019).

⁷ Id.

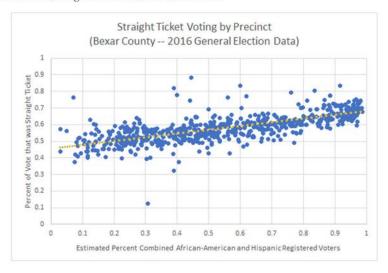


persons of color and sowed fear into immigrant communities. It is hard to imagine that this program would have been precleared.

2017 LAW PROHIBITING STRAIGHT TICKET VOTING

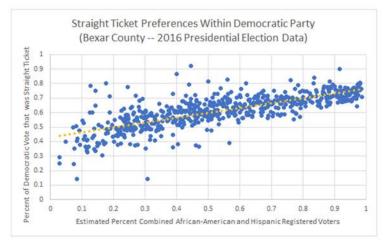
In 2017, the Texas Legislature passed House Bill 25, which eliminated straight ticket voting in Texas and is set to take effect for the first time in the 2020 elections. Although facially neutral, the discriminatory impact of eliminating straight ticket voting is evident from our preliminary analysis of available data from Bexar County (shown below). Accordingly, we believe this law would have had little chance of getting pre-cleared under the pre-Shelby County regime.

Our preliminary analysis of voting patterns in Bexar County, home to San Antonio, indicates a strong relationship between race and straight ticket preference. Moreover, this correlation is not simply a product of partisan preference since the relationship appears to grow even stronger when one limits the analysis to voters who voted for the Democratic presidential candidate in the last election. Out of those who voted for the 2016 Democratic candidate, voters in majority Black and Latinx precincts strongly preferred casting straight party tickets, while the majority Anglo precincts tended towards casting individual votes for the candidate.



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In certain jurisdictions the practical impact of taking away straight ticket voting is especially pronounced for communities of color. In particular, Harris County, home to Houston, is known for having long ballots given the large number of countywide judicial offices that are in play each cycle. The 2018 ballot, for instance, featured a total of 92 races, including 78 state judicial races. Harris County is also home to the largest non-White population in the state, including the largest Black population in Texas and the second largest Latinx population in the entire nation. Thus, the direct result of eliminating straight ticket voting will be to drastically increase the time it takes for Texas's largest communities of color to cast their votes.

This law was seemingly passed with the hope that voters of color would skip the down-ballot races in urban areas such as Harris County. Regardless of whether that turns out to be true in practice, the Texas Legislature's choice to remove the preferred voting method of voters of color is retrogressive in effect and, accordingly, suspect. Indeed, even the State leadership's purported rationale for the law is questionable. They claimed that eliminating straight-ticket voting forces greater individualized consideration of each candidate, but this logic indicates that voters of color are incapable of making their own well-reasoned voting decisions.

The discriminatory impact of the no-straight-ticket-voting law is precisely what the Voting Rights Act was meant to prevent. But the absence of Section 5 protection allowed the Texas Legislature to freely enact this law, despite its retrogressive effects and suspect rationale. Without federal oversight,

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the only recourse to communities of color is expensive litigation under Section 2 of the Voting Rights Act after the law is implemented.

2017 "ORGANIZED ELECTION FRAUD" LAW

Texas consistently boasts some of the lowest voter registration rates in the country, with millions of eligible voters excluded from the rolls. But even worse is that the current electorate does not adequately represent the population. Asian-American and Latinx voters are significantly less likely to be registered than their Anglo peers, and young voters are woefully underrepresented, * translating to an electorate that is older and whiter than Texas' citizen voting-age population as a whole. Disparate registration rates are at least partially due to laws and policies that create systemic barriers to voter registration for people of color, young people and poor people.

One such set of policies govern third-party voter registration activities, such as voter registration drives. These policies have a disparate impact because it is well established that persons of color and young people are much more likely to register to vote through third-party activities. For instance, in the November 2016 election, Black and Latinx voters were nearly twice as likely as white voters to have registered through a voter registration drive than through other means. Additionally, more than 10% of all young voters registered to vote at school, resulting (almost certainly) from voter registration drives at those schools.

The registration drive laws are complicated, but the upshot is this: it is a crime to register voters in Texas unless you are certified in advance by every Texas county where you register voters. If you mistakenly collect a form from a voter who resides in a county where you have not been deputized, you have "purport[ed] to act as a volunteer deputy registrar" without "effective appointment" and have committed a misdemeanor crime punishable by \$500.11 Once deputized in a county, the State

⁸ For the 2016 general election, only 48% of Texans ages 18 to 24 were registered to vote, while 78% of Texans over the age of 65 were registered. This is seven percentage points lower than the national average rate for eligible voters ages 18-24.

⁹ See U.S. Census Bureau, Voting and Registration in the Election of November 2016 (May 2017), https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-580.html. Note that while these counts include voter registration by other means, voter registration drives are viewed as an increasingly important source of registration, "especially for low-income citizens, students, members of racial and ethnic minority groups, and people with disabilities." Wendy R. Weiser & Lawrence Borden, Brennan Center for Justice, Voting Law Changes in 2012 (2011), available at https://www.brennancenter.org/publication/voting-law-changes-2012.

Id.
 Tex. Elec. Code § 13.044.



strictly regulates the conduct of "volunteer deputy registrars" and thus, effectively restricts voter registration drives themselves. Freedom summer would have been illegal in Texas.

Beginning just before the *Shelhy County* decision, the State has continued to introduce new rules to make the process of organizing voter registration drives increasingly complicated, confusing and wrought with legal liability. As one community organizer memorably put it, Texas law requires "a PhD in voter-obstacle-ology to navigate the system." As I have detailed elsewhere, the predictable result of this regime has been to significantly chill voter registration drives since 2011, one of the most effective methods to engage historically disenfranchised voters of color and young voters who are new to the process. No other state has imposed such a punishing web of regulations on voter registration drives.

In 2017, Texas upped the stakes yet again by adding a new layer of criminal penalties in a sweeping law entitled "Engaging in Organized Election Fraud Activity." Effective September 1, 2017, this law makes it a state jail felony to act with three or more persons in a so-called "vote harvesting organization" which is broadly defined as any collaborative effort that runs afoul of the Texas Election Code, including the laws governing voter registration drives. "Violations under the new scheme are punishable by a mandatory minimum sentence of at least 180 days in jail.

Under the 2017 "Organized Election Fraud" law, the Attorney General could prosecute, for felony crimes, persons associated with civic engagement groups who are engaged in voter registration activities just because they mistakenly run afoul of complicated and often vague regulations. This might mean, for instance, that community organizers and grassroots volunteers unwittingly collect registration forms from voters who live in counties encompassed by their city but in which they are not deputized. To P perhaps volunteers accidently deliver registration forms to county officials six

¹² Ari Berman, Texas's Voter-Registration Lans Are Straight Out of the Jim Crow Playbook, THE NATION, Oct. 6, 2016, https://www.thenation.com/article/texass-voter-registration-laws-are-straight-out-of-the-jim-crow-playbook/

¹³ See generally Mimi Marziani & Robert Landicho, What Starts in Texas Doesn't Always Stay in Texas: Why Texas's Systematic Elimination of Grassroots Voter Registration Drives Could Spread, AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY (May 2018) https://www.acslaw.org/wp-content/uploads/2018/07/What-Starts-in-Texas.pdf.

¹⁴ Tex. Elec. Code § 276.011. "Collaboration" is a tenuous term, and may be found even if "participants may not know each other's identity, membership in the organization may change from time to time, and participants may stand in a candidate-consultant, donor-consultant, consultant-field operative, or other arm's length relationship in the organization's operations."

¹⁵ Dissenting in Voting for America v. Steen, 732 F.3d 382 (2013), Court of Appeals Judge W. Eugene Davis, made this point:



days after collection, violating the five-day period prescribed by law, or unwittingly put registration forms in the mail rather than deliver them in person.¹⁶

The full effects of this law are just now being realized. But two facts point to a likely disparate impact on communities of color: First, the Texas Attorney General has ramped up prosecutions under the Texas Election Code in recent months, under a new "Election Fraud Unit." Based on data collected by TCRP, people of color appear to be targeted and are receiving longer sentences. Second, as detailed above, restricting third-party registration activity in and of itself disparately impacts communities of color in Texas, given their greater use of drives to become registered to vote.

Thus, the combination of the Attorney General's newly expanded power, direct attacks on voters of color and the morass governing voter registration drives creates an environment where community registration efforts will almost certainly continue to decrease—the risks are just too high. If even one high-profile case was brought against a civic engagement group, justified or not, registration activity would surely plunge.

At the very least, the preclearance process would have required the State to provide data and other information to ascertain the justifications for the 2017 "Organized Election Fraud" law and the extent to which the law will in fact decrease registration opportunities in communities of color. Without Section 5, communities of color are simply left waiting for the "other shoe" to drop, with little recourse available in the meantime.

As of the date of this testimony, there are multiple pending bills that threaten voting rights in communities of color in the current legislative session but, nonetheless, have significant support from Texas political leaders. Without the deterrent effect of Section 5, at least some of these bills have been advancing in the legislative process with no meaningful inquiry into their likely impact on

[[]A] VDR must be appointed in every county in which an applicant resides so that a VDR who is appointed in County A yet submits an application for a citizen who resides in County B is subject to criminal prosecution.... These rules force the organizations to have their canvassers and managerial staff appointed as VDRs in multiple counties. This is especially burdensome in the larger metropolitan areas where voters may reside in one of several area counties.

¹⁶ Tex. Elec. Code § 13.043.

¹⁷ Ashley Lopez, Ahead of the 2018 Election, Texas AG Ramps Up Voter Fraud Prosecutions, NPR.ORG (Oct. 28, 2018), https://www.npr.org/2018/10/28/661020113/ahead-of-the-2018-election-texas-ag-ramps-up-voter-fraud-prosecutions.



voters of color.¹⁸ If one of more of these bills pass, once again, expensive, after-the-fact litigation will be the only recourse available for affected communities—depending, of course, on the resources to support such litigation.

If any of these bills significantly advance before the end of the hearing submission period, we will update this testimony accordingly.

I am happy to answer any questions the Subcommittee might have and provide additional information upon request. Once more, thank you for the honor of testifying today.

Respectfully submitted by:

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¹⁸ One example is HB 3964, and its companion, SB 1255, which have both passed out of their respective committees in the Texas Legislature and are eligible to be considered by the whole House and Senate any day. These bills would change the methodology governing the locations of Election Day vote centers within a county, pegging the allocation of polling places to the proportion of registered voters in a certain area. But, given the lower registration rates in communities of color, this law would in effect eliminate polling places from communities of color while simultaneously increasing the number of polling places in heavily Anglo areas. TCRP's preliminary analysis, shared with the legislature in written testimony on April 15, 2019, demonstrates the significant, discriminatory impacts associated with the bill's provisions. (Available here: https://texascivilrightsproject.org/wp-content/uploads/2019/05/TCRP-Testimony-Against-HB-3964.pdf).
If passed, this law would constitute a textbook Section 5 violation.

APPENDIX E



May 13, 2020

The Honorable Ruth Hughs Texas Secretary of State P.O. Box 12887 Austin, TX 78711 Email: secretary@sos.texas.gov

e: Notice of Widespread Violations of the Texas Election Code

Dear Secretary Hughs,

Following the November 2018 General Election, the Texas Civil Rights Project ("TCRP") undertook a statewide review of Texas counties' compliance with certain provisions of the Texas Election Code. This revealed that dozens of Texas counties across the State—big and small, urban and rural—violated the Election Code in November 2018 by collectively providing hundreds of fewer polling places than required under state law. It also showed that absent remedial action, these counties will continue to violate the law in future elections. We contacted each of these counties with our findings, and many agreed to take action to prevent future violations. Others, however, have ignored our communications.

There is no doubt that these widespread, recurring, and readily apparent violations disenfranchised voters during the 2018 election. If not remedied, they will do so again in the future. This concern is even more salient now given the impact of the coronavirus. Additional polling places are necessary not only to comply with the law but also to permit socially responsible distancing to mitigate the spread of the virus. More polling places means shorter lines and fewer people at each polling place.

As the Texas Secretary of State, you bear the legal responsibility of ensuring that Texas counties comply with the Election Code, and other election laws, so that every citizen has an equal opportunity to cast their vote. You also bear the responsibility of ensuring that voting is as safe as practical—the bare minimum of which requires compliance with the law. Nonetheless, your office has yet to take any steps to curb these violations.

We therefore request that you review the violations detailed below and take immediate action to force Texas counties into compliance with the law. At the very least, this should include releasing a statewide advisory instructing Texas counties to be aware of and remedy any of the Election Code violations discussed in this letter. If a county refuses to do so, it is then your responsibility as the state's chief elections officer to take additional steps, up to and including legal action, to enforce compliance. Finally, because our discovery of these violations makes it clear that your office is not fully monitoring county compliance with the election code, we request that you implement a monitoring and education program to ensure Texas' counties do not repeat these violations.

A. Violations of the Texas Election Code During the 2018 General Election

Our investigation focused primarily on the provisions of the Election Code that govern how many polling places a county is required to provide during a general election. We applied these provisions to the data each Texas county supplied to the United States Election Assistance Commission for 2018. This allowed us to determine whether a county provided fewer than the minimum number of polling places required under the Election Code during the November 2018 election. The methodologies we employed,

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and our findings, are presented below. We proceed in the following order: (1) the methodology used to assess non-countywide polling counties for compliance with the Election Code; (2) the methodology used to assess countywide polling counties for compliance with the Election Code; (3) the methodology used to assess countywide polling counties for compliance with the Voting Rights Act; and (4) the results of applying these methodologies to Texas counties' November 2018 practices.

1. Non-Countywide Polling Counties-Election Code Methodology

For counties that did not utilize the countywide polling program, we began with Section 43.001 of the Election Code, which mandates that "[e]ach election precinct established for an election shall be served by a single polling place located within the boundary of the precinct." Tex. Elec. Code § 43.001. This established an initial number of polling places equal to the number of election precincts in the county.

We then applied Section 42.0051 of the Election Code, which permits counties, when "changes in county election precinct boundaries to give effect to a redistricting plan result in [certain smaller precincts]," to combine those smaller precincts with neighboring precincts in order to avoid unreasonable expenditures. Tex. Elec. Code § 42.0051(a). Counties with fewer than 250,000 people may only combine precincts if the smaller precincts have fewer than 500 registered voters, while counties with a population of 250,000 or more may only combine precincts if the smaller precincts have fewer than 750 registered voters. *Id.* at § 42.0051(a), (b).1

We gave each county the benefit of the doubt and assumed that this provision would apply to each of their smaller precincts, and that each county would maximize its number of combined precincts by combining each combination-eligible smaller precinct with a single larger precinct—even if a county may have in fact been able to combine multiple neighboring smaller precincts with one another, or may not have been able to combine each smaller precinct with a neighboring larger precinct because the only available combinations would have exceeded the max-registered-voters-per precinct limit discussed immediately below. In other words, we calculated a "floor," or "baseline" number of precincts that a county would have to provide under the Election Code if it combined its eligible precincts in a way that minimized the number of precinct polling places it would be required to provide under the one-polling-place-per-precinct and precinct-combining rules.²

We finally looked to whether a county had violated the max-registered-voters-per-precinct rule. The Election Code prohibits both standalone and combined election precincts from containing more than

These "combined precinct" provisions apply to general, special, and primary elections. During special and primary elections, the Election Code also permits the "consolidation," rather than "combining," of election precincts, which implicates different limitations. Compart Text. Elec. Code § 42.0051 with di. §§ 42.0084–42.009.

For example, imagine a county had 20 precincts, 5 of which were small enough to be eligible for

For example, imagine a county had 20 precincts, 5 of which were small enough to be eligible for combination. If the county combined each of those 5 smaller precincts with 1 larger precinct each, its total number of precincts would be 20 minus 5, or 15 precincts (10 larger precincts standing alone and 5 combined precincts). It would thus be required to provide 15 polling places under the one-polling-place-per-precinct rule. However, if the county instead chose to combine 3 of the 5 smaller precincts with one another, because they were geographically contiguous, the county would then have a total of 18 precincts (15 larger precincts standing alone, 2 smaller precincts standing alone, and 1 combined precinct)—and be required to provide 18 polling places, rather than 15. We thus gave counties the greatest leeway possible in assuming they could and would combine every combination-eligible smaller precinct with a single larger precinct.



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5,000 registered voters, not counting suspense voters.³ Tex. Elec Code § 42.0051(c); id. at § 42.006(a), (e). Of note is the fact that every Texas county with an overly-large precinct for more than two years necessarily violated the Election Code by failing to execute its statutorily-mandated, non-discretionary duty to review its precincts every odd-numbered year for non-compliance with the law. See Tex. Elec. Code § 42.031(a).

Thus, when the floor number of polling places calculated for a county exceeded the number of polling places the county actually provided, it necessarily meant that the county had violated some aspect of the above provisions. For example, Denton County reported having 179 election precincts during the November 2018 election. As a county with 250,000 or more people, we assumed it was also eligible to combine any of its 21 precincts containing fewer than 750 registered voters. Thus, assuming the county was permitted to combine each of those 21 precincts with one larger neighboring precinct, it could have had at most reduced its number of total precincts from 179 to 158. Under the one-polling-place-per-precinct rule, then, it was required to have provided at least 158 polling places. Instead, Denton County provided 94 polling places.

This meant we needed to look more closely into Denton County. Upon doing so we found that the county had improperly combined precincts both by (1) combining precincts that were not eligible for combination because none contained fewer than 500 registered voters; and (2) combining precincts to create precincts containing substantially more than 5,000 registered voters. We also found that Denton County had at least 10 election precincts that individually, irrespective of any combination with others, contained more than 5,000 registered voters. The county therefore violated the Election Code during the November 2018 election in each of the possible ways discussed above.

After carrying out this sort of analysis on every non-countywide polling county in Texas, we sent letters to those we identified as having violated the Election Code. We admitted in these letters that some of the combined or individual precincts we identified as having more than 5,000 registered voters may have been in compliance with the Election Code because they would have had fewer than that number once the suspense voters were subtracted, but that we did not possess that data. Nevertheless, where precincts contained substantially more than 5,000 registered voters, it seemed very unlikely that even the subtraction of suspense voters would bring them into compliance. For instance, 37 of the combined

³ Certain events trigger a county registrar to place a voter "on suspense." This typically indicates that the registrar is unsure of the voter's residential address. For example, if the voter's registration certificate is returned as non-deliverable, the registrar will send a Notice of Address Confirmation to the voter and place the voter "on suspense" in the interim. A "suspense voter" may still vote in elections for which they are eligible, provided they complete certain steps such as filling out a Statement of Residence while at the polls. See https://www.votetexas.gov/fag/ (accessed May 12, 2020); see also Tex. Elec. Code § 15.081.

An example of the first type of violation is demonstrated by Denton County's combination of Precincts 1004, 1026, 1027, and 1041. Precinct 1004 had close to 4,000 registered voters; Precinct 1026 had close to 5,500 registered voters; Precinct 1027 had under 750 registered voters, and Precinct 1041 had close to 3,000 registered voters. Thus, while Precinct 1027 was eligible to be combined with any of the other three precincts Precincts 1026, 1027, and 1041 could not be combined with one another. Similarly, the county combined Precincts 2013, 2014, 2015, and 2016. Those precincts had around 1,700, 2,700, 3,600, and 3,800 registered voters respectively. None were therefore eligible for combination under TEC § 42.0051. These two examples represent a non-exhaustive sampling of the improperly combined precincts Denton

County used during the November 2018 election.

The above two examples of improperly-combined precincts also demonstrate the second type of violation. The combined precinct of Precincts 1004, 1026, 1027, and 1041 contained over 12,500 registered voters, and the combined precinct of Precincts 2013, 2014, 2015, and 2016 contained over 11,500 registered voters.



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precincts that Denton County used during the November 2018 election contained more than 5,000 registered voters, and 27 of those 37 contained more than 6,000 registered voters, with some as high as 10,000 or more. It is extraordinarily unlikely that subtracting the number of suspense voters from these combined precincts would have brought their number of registered voters under 5,000.

We also noted in our letters that the way in which the county chose to redraw any overly-large standalone precincts we identified might correspondingly increase the number of polling places it would be required to provide. For example, if the county chose to split a standalone precinct containing 6,000 registered voters into two precincts containing 3,000 registered voters, that would mean it would need to provide an additional polling place for the new precinct. However, if it were able to redraw the overly-large precinct and its neighboring precincts in a way that did not increase its number of election precincts, then the baseline number of required polling places would not change.

Finally, we did not send letters to several counties we identified as containing overly-large precincts either because they had already redrawn their overly large precincts (e.g., Hays County), or because the overage in their too-large precincts was not substantial (e.g., Webb County, with one precinct containing ~5,100 registered voters).

2. Countywide Polling Counties-Election Code Methodology

We also analyzed Texas counties that participated in the countywide polling program during the November 2018 election. This program, which is permitted by section 43.007 of the Election Code, enables voters to cast their ballot at any polling place irrespective of the election precinct in which they reside. For clarity, this letter will refer to polling places provided during countywide polling elections as "vote centers"

Section 43.007 requires that "for an election held in the first year in which the county participates in the [countywide polling place] program," "[t]he total number of [voter centers] may not be less than65 percent of the number of precinct polling places that would otherwise be located in the county for that election." Tex. Elec. Code § 43.007(f). And for elections held after the first year of participation, a county must provide "not less than50 percent of the number of precinct polling places that would otherwise be located in the county for that election." *Id.*

Thus, to determine whether a county utilizing the countywide polling program had violated the Election Code during the November 2018 election, we began by performing the calculations already discussed with respect to the one-polling-place-per-precinct, combined precincts, and registered-voter-limits. This yielded the baseline number of polling places that "would [have] otherwise be[en] located in the county for the election" if it had not utilized countywide polling. See id. We then applied either the 50 percent or 65 percent rule to that baseline number, depending on whether the November 2018 election fell within the county's "first year of participation" in the program. Id. Whenever this calculation yielded a non-integer result, we rounded up, because a county cannot provide a fraction of a vote center and because rounding down would fail to satisfy the percentage requirement. For example, if a county was not in its first year of the program and would have been required to provide 197 polling places if not using countywide polling, that meant it was required to provide 50 percent of 197, or 98.5, vote centers. This would then be rounded up to 99 vote centers because rounding down to 98 vote centers would fail to satisfy the 50 percent requirement.



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While the question of improperly combined precincts plays no role in assessing whether counties using countywide polling violated the Election Code, the maximum-registered-voters-per-precinct rule does. This is, as already discussed, because how the county would choose to remedy these precincts may affect its baseline number of precincts, which would in turn affect the 50 or 65 percent calculation. Thus, as a simple example, a county in its fourth year of participation in the program and which contained a baseline number of 60 precincts would be required to provide 30 vote centers in a countywide polling election (50 percent of 60). But if 10 of that county's 60 election precincts contained more than 5,000 registered voters, it is highly unlikely that if the county had properly redrawn those precincts prior to the election—as required by the Election Code—that its baseline would have in fact been 60. More likely, it would have split some of those precincts into two or more, while absorbing others into neighboring precincts, thereby increasing its baseline and, in turn, the number of polling places required to comply with

Of course, we could only speculate as to how counties would redraw their precinct lines to remedy this issue. Thus, in determining whether to contact a countywide polling county about overly-large precincts, we assumed that a county would split each into two non-combinable precincts. If, even accounting for that increase in the number of required polling places, the county's number of vote centers would have still been adequate, then we did not contact the county. For instance, if a county past its first year of participation in the countywide polling program had a baseline number of 40 election precincts, but also had 10 election precincts containing more than 5,000 registered voters, we assumed that its real baseline number was 50 precincts (30 + 10 times 2). This yielded a requirement of 50 divided by 2, or 25 vote centers. So, if the county had provided 25 or more vote centers, we did not contact them. As seen in the results section below, the only county that we sent a letter to on the basis of this sort of analysis was Galveston County, because assuming it split each excessively-large precinct in two, it would not have provided 50 percent of its otherwise required number of polling places. This does not mean, however, that these countywide polling counties with excessively large precincts are not violating the Election Code; we simply chose to focus our efforts elsewhere for now. The results section lists those countywide polling counties having excessively large precincts but to whom we did not send a letter.

Finally, we checked countywide polling counties for compliance with the rule that each commissioners precinct must contain at least one vote center. See Tex. Elec. Code § 43.007(m). The only county in violation of this rule was Aransas County, which ignored our attempts at communication.

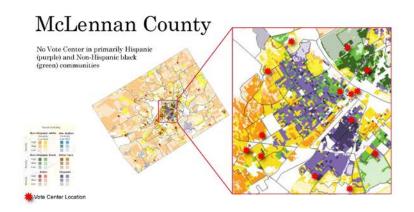
3. Countywide Polling Counties-Voting Rights Act Methodology

Lastly, we superimposed countywide polling counties' vote center locations over a census-based map displaying each county's block-by-block demographic makeup in order to visualize any racially disparate impact in the provision of vote centers, implicating a violation of the Voting Rights Act. We contacted McLennan and Smith County because both failed to provide a vote center in heavily minority-majority areas in their largest cities—Waco and Tyler, respectively—during the November 2018 election. After receipt of our letter and as captured in the results section below, both counties committed to opening a vote center in those areas for the November 2020 General Election.

Below is a map depicting the potential violation of the Voting Rights Act that we identified in Waco, in McLennan County. The potential violation in Tyler, in Smith County, was very similar.



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4. The Results of Applying the Above Methodologies

As mentioned previously, we identified dozens of counties that violated the Election Code during the November 2018 election for the reasons discussed above. The following are two charts setting out our findings as well as each county's response after we informed them of our conclusions.

a. Non-Countywide Polling Counties

Key: "ICP-1"—county improperly combined precincts exceeding 500/750 registered voters "ICP-2"—county improperly combined precincts in excess of 5,000 registered voters "5k+ precincts"—county had standalone precincts in excess of 5,000 registered voters

County	Type of Violation	Number of Polling Places in 2018	Legally Required Number of Polling Places in 2018	Month Notified	Result
Angelina	ICP-1	27	32	September 2019	Committed to remedying issues
Bastrop	ICP-1, ICP- 2, 1x 5k+ precinct	20	21+ depending on redrawing of too- large precincts	September 2019	Committed to remedying issues



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Bell	ICP-1, ICP- 2, 18x 5k+ precincts	46	45+ depending on redrawing of too- large precincts	September 2019	Moving to countywide polling program for March 2020 and beyond and will be providing 41 vote centers
Bowie	ICP-1	32	33	October 2019	Responded but did not commit to remedying issues
Caldwell	ICP-1	12	16	October 2019	Ignored certified mail and attempted follow-up communication
Cameron	ICP-1, ICP- 2, 1x 5k+ precinct	76	80+ depending on redrawing of too- large precincts	October 2019	Responded requesting time to formulate response but has ignored all attempted follow-up communication
Coke	ICP-1	2	3	October 2019	Responded initially but did not commit to remedying issues and has ignored all attempted follow-up communication
Comal	ICP-1, ICP- 2, 5x 5k+ precincts	25	28+ depending on redrawing of too- large precincts	October 2019	Ignored certified mail and attempted follow-up communication
Cooke	ICP-1	16	25	October 2019	Responded initially but did not commit to remedying issues and has ignored all attempted follow-up communication
Dallam	ICP-1	2	3	October 2019	Committed to remedying issues
Denton	ICP-1, ICP- 2, 10x 5k+ precincts	94	158+ depending on redrawing of too- large precincts	September 2019	Responded in November 2019 agreeing with our analysis and committing to look into issues, but have ignored attempted follow-up



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					communications to confirm
El Paso	ICP-1, ICP- 2, 10x 5k+ precincts	151	172+ depending on redrawing of too- large precincts	September 2019	Moving to countywide polling program for November 2020 and will provide as many vote centers as polling places
Hardin	2x 5k+ Precincts	19	19+ depending on redrawing of too- large precincts	October 2019	After back-and- forth from November 2019 to late January 2020, informed us that the county will not remedy the issue prior to 2021
Johnson	ICP-1, 5x 5k+ precincts	28	34+ depending on redrawing of too- large precincts	October 2019	Agreed to remedy the improperly combined precincts, but refuses to redraw too-large precincts until after the 2020 census
Maverick	ICP-1	13	14	February 2020	Has not yet responded, but not enough time has passed to definitively conclude the county is ignoring the problem
Montgomery	ICP-1, 10x 5k+ precincts	95	95+ depending on redrawing of too- large precincts	October 2019	Responded initially but did not commit to remedying issues and has ignored all attempted follow-up communication
Nacogdoches	ICP-1	17	20	October 2019	Committed to remedying issues
Presidio	ICP-1	2	4	October 2019	Committed to remedying issues
Rockwall	4x 5k+ precincts	17	17+ depending on redrawing of too- large precincts	October 2019	Ignored certified mail and attempted follow-up communication



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Somervell	ICP-1, ICP-2	1	4	October 2019	Committed to remedying issues
Starr	2x 5k+ precincts	10	10+ depending on redrawing of too- large precincts	February 2020	Has not yet responded, but not enough time has passed to definitively conclude the county is ignoring the problem
Washington	ICP-1	15	17	October 2019	Ignored certified mail and attempted follow-up communication
Wilbarger	ICP-1	4	6	October 2019	Ignored certified mail and attempted follow-up communication

Caldwell County, Cooke County, Montgomery County, and Denton County are particularly egregious offenders among those which have either ignored our communications or otherwise failed to fully commit to remedying their violations. Caldwell County needs to provide a full 33% more polling places than it currently does; Cooke County, almost 60% more. And Montgomery County has ten (10) precincts containing more than 5,000 registered voters—more than 10% of its 96 precincts total. Finally, Denton County initially responded positively to our finding that it needs to add sixty (60) or more polling places to comply with the Election Code, admitting that it could not disagree with our conclusions and that it planned to look into the issues we identified. However, it has ignored all further attempts at communication and has yet to confirm the number of polling places it intends to provide for the November 2020 General Election.

Other counties have also ignored our communications or responded requesting more time to formulate a response but then ignored further attempts at correspondence. At least Hardin and Johnson County, despite receiving our demands in October 2019 and responding in November 2019—and thus having ample time to redraw their overly-populated precincts—have made it clear they intend to continue violating the Election Code until after the 2020 census and the accompanying redistricting.

Hays, Hunt, Kaufman, Midland, Polk, Taylor, and Webb Counties all had at least one precinct containing more than 5,000 registered voters. However, either because these counties have already redrawn their overly large precincts, or because the overage in their too-large precincts was not substantial, we did not send these counties a letter about their past noncompliance.

Note also that both Bell County and El Paso County responded to us by stating that they are moving to the countrywide polling program for future elections. This move will bring both counties into a sort of "general compliance" with the Election Code, even if technical violations remain. We use the term "general compliance" here to describe the situation in which a county which has in previous years seriously violated the Election Code by failing to provide the statutorily-required number of polling places



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nevertheless provides a number of vote centers under the countywide polling program that likely meets the 65 percent and 50 percent requirements, even accounting for the fact that the county still needs to redraw their overly-large precincts. In other words, even assuming that a county in this position were to split each of its overly-large precincts in two, it is likely that the number of vote centers it is providing would still be adequate under the law.

Thus, because El Paso has pledged to provide the same number of vote centers as it has polling places in the past, it will be in "general compliance" for the November 2020 election notwithstanding its overly large precincts. El Paso had ~191 election precincts in November 2018, with ~19 having fewer than 750 registered voters, so the minimum polling places it could have provided was 172 polling places. It also had 10 precincts with over 5,000 registered voters. But even assuming it splits each of those 10 precincts in two, the provision of 191 vote centers will exceed the 65 percent and later the 50 percent requirement for countywide polling.

The same is true for Bell County, which has pledged to provide 41 vote centers in comparison to its previous baseline number of 45 polling places during the November 2018 election. This move permits Bell County—which still has eighteen (18) election precincts containing more than 5,000 registered voters—to escape any sort of consequence for its previous violations.

Although these counties will now be in "general compliance" with the Election Code, the above still serves to highlight just how severely and blatantly they and others have violated the law during past elections without any oversight from the office of the Secretary of State.

b. Countywide Polling Counties

Key: "VC"—county did not provide enough vote centers to meet the percentage requirements "5k+ precincts"—county had standalone precincts in excess of 5,000 registered voters

County	Type of Violation	Vote Centers in 2018	Legally Required Number of Vote Centers in 2018	Month Notified	Result
Aransas	Fewer than one vote center per commissioners precinct	3	4	September 2019	Ignored certified mail and attempted follow-up communication
Brazoria	VC%, 9x 5k+ precincts	27	33	January 2020	Committed to remedying issues
Collin	VC%, 11x 5k+ precincts	68	99+, depending on redrawing of too-large precincts	September 2019	Committed to remedying issues



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Galveston	7x 5k+ precincts	35	36, assuming each 5k+ precinct is split in two	September 2019	Ignored certified mail and attempted follow-up communication
Hidalgo	VC%, 2x 5k+ precincts	74	80+, depending on redrawing of too-large precincts	January 2020	Ignored attempted communication
Howard	VC%	4	8	September 2019	Committed to remedying issues
Lubbock	VC%	37	40	January 2020	Responded requesting time to formulate response but has yet to do so despite attempted follow-up communications
McLennan	No vote center in minority-majority area	n/a	n/a	September 2019	Committed to remedying issues
San Patricio	VC%	8	10	September 2019	Committed to remedying issues
Smith	No vote center in minority-majority area	n/a	n/a	September 2019	Committed to remedying issues

Additionally, our investigation revealed that many countywide polling counties other than those listed above had a substantial number of election precincts containing more than 5,000 registered voters in November 2018. We did not send these counties letters for the reason already discussed in the methodology section above—that the county's number of vote centers would have been sufficient even if each overlarge precinct had been split in two. Among the worst offenders were Fort Bend County and Williamson Counties, each with 15 excessively large election precincts, and Travis County, with 43 excessively large election precincts.

B. The Texas Secretary of State's Powers and Duties Under the Election Code

The Election Code names you, the Texas Secretary of State, as the "chief election officer of the state" and orders that you "shall obtain and maintain uniformity in the application, operation, and interpretation of this code and of the election laws outside this code. . . . shall prepare detailed and comprehensive written directives and instructions relating to and based on this code and the election laws outside this code. . . . [and] shall distribute these materials to the appropriate state and local authorities having duties in the administration of these laws." Tex. Elec. Code §§ 31.001(a), 31.003.

To accomplish these goals, the Election Code empowers you to "take appropriate action to protect the voting rights of the citizens of this state from abuse by the authorities administering the state's electoral processes," to order those authorities "to correct the offending conduct," and to "seek enforcement" of



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that command "by a temporary restraining order or a writ of injunction or mandamus obtained through the attorney general." Id. at § 31.005; see Voling for Am., Inc. v. Andrade, 888 F. Supp. 2d 816, 831 (S.D. Tex. 2012) rev'd on other grands, sub nom. Voling for Am., Inc. v. Steen, 732 F.3d 382 (5th Cir. 2013) ("[T]he Secretary [of State] admitted in this Court that—through the Texas Attorney General—she can... bring a suit in her name to obtain a writ of mandamus against any county official who refuses to follow her interpretations of the voting laws.").

It is apparent from the widespread and blatant nature of the violations discussed above that the office of the Secretary of State has neglected these duties under the Election Code. It is further apparent that in the absence of this oversight, Texas counties feel empowered to continue deliberately disobeying the law, as demonstrated by the numerous counties that have ignored our specific notices or outright refused to come into compliance.

The result of this obstructionism is that at least some of the counties we contacted may now justify their refusal to redraw their overly-large precincts on the fact that the March 2020 Primary Election has now finished. This is because the Election Code prohibits "[a] change in a county election precinct boundary... on a date occurring between the date of the general primary election and the date of the general election." Tex. Elec. Code § 42.033(c). But this is a problem of these counties' own making; we sent the vast majority of our letters in the fall or winter of 2019 and these counties had ample time to redraw their precincts. Moreover, the Election Code contains an explicit exception to this rule: a county may redraw precinct boundaries during this time period to "comply with a court order." Id. § 42.033(c)(3). Accordingly, your office retains the power to force these counties to come into compliance with the law after the primary election through your power to seek enforcement of the Election Code by a writ of mandamus, even if they have deliberately delayed redrawing their precincts to avoid coming into compliance for the November 2020 election.

There is no similar excuse for those counties which have violated and will continue to violate the Election Code by improperly combining precincts and failing to provide the number of polling places required under the law. That sort of violation does not implicate the redrawing of any precincts and there is no ostensible restriction on a county remedying any such issue.

C. Conclusion

As described in detail above, our investigation revealed that counties all across Texas—big and small, urban and rural—have flouted the requirements of the Election Code in past elections and will continue to do so in future elections. This was the case *even though* our analysis gave Texas counties the benefit of the doubt at every juncture.

Though we gave notice of these violations to counties across the state, only a fraction have agreed to remedy their respective violations. Others have made it clear, either by ignoring these notices or by responding and directly saying so, that they intend to continue willfully violating the Election Code.

These widespread violations have affected voters all across the state, and will only continue in the absence of any meaningful oversight from your office. As the Texas Secretary of State, you are explicitly entrusted with the duty to ensure that Texas counties comply with the Election Code, and are empowered by law to command that compliance. It is also your responsibility to minimize the coronavirus' potential impact on the November election—the bare minimum of which requires instructing Texas counties to



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open more polling places in compliance with the law. To ensure that every citizen has an equal, safe opportunity to cast their vote, we ask that you utilize your authority to:

- Issue a statewide election advisory to every Texas county explaining the provisions of the Election Code set out in this letter and mandating that each county review its election precincts and polling places or vote center numbers for compliance with the law.
- Monitor the counties that responded to our violation notices by pledging to come into compliance by November 2020 to confirm that they in fact do so. This includes Angelina, Bastrop, Brazoria, Collin, Denton, Dallam, Howard, McLennan, Nacogdoches, Presidio, San Patricio, Smith, and Somervell Counties.
- 3. Take action to ensure that those counties that did not adequately respond to our notices and are likely to continue to violate the Election Code are brought into compliance with the law. This includes Aransas, Bowie, Caldwell, Cameron, Coke, Comal, Cooke, Galveston, Hardin, Hidalgo, Johnson, Lubbock, Montgomery, Rockwall, Washington, and Wilbarger Counties.
- Additionally ensure that those counties we most recently contacted, which
 may not have yet had adequate time to respond, come into compliance with
 the Election Code. This includes Maverick and Starr Counties.
- Take further steps, including legal action when needed, if any of the above counties refuse to come into compliance with the Election Code before the next general election.
- Oversee Texas counties' election practices to ensure that these violations, and others, do not occur in future elections.

We are happy to help in any way we can with this process and to meet with you either in person or by phone to discuss the contents of this letter.

We look forward to your prompt response.

Sincerely,

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APPENDIX F

Testimony Submitted by Mimi M.D. Marziani, Esq., President of the Texas Civil Rights Project



U.S. House of Representatives

Select Subcommittee on the Coronavirus Crisis

September 9, 2020

I. Introduction

It is a great honor to testify before this body, the Select Subcommittee on the Coronavirus Crisis for the U.S. House of Representatives.¹ For my testimony this morning, I draw heavily from my work as President of the Texas Civil Rights Project (TCRP), and appear on behalf of that organization. I also bring my experience as Chairwoman of the Texas State Advisory Committee to the U.S. Commission on Civil Rights,² as an adjunct professor of "Election Law and Policy" at the University of Texas School of Law, and from roughly a dozen years working to advance voting rights and election reform as a civil rights attorney.

I have been asked to update this Subcommittee on the State's preparation for the November election, focusing on the actions state officials are and are not taking to ensure that no Texas voter has to choose between their safety and their right to vote. Unfortunately, as detailed below, State officials are failing to fulfill their obligation to Texas voters. Their actions and inactions are undermining the fair and free functioning of our Texas democracy, with particularly dire potential consequences for Black and Latinx communities.

As detailed below, Texas has aggressively fought any expansion of voting, despite guidance from the Centers for Disease Control and Prevention (CDC) to provide "a wide variety of voting options" in addition to in-person voting and the bipartisan adoption of expanded voting by mail in the vast majority of other states. On top of that, in a brazen abuse of state power, our Attorney General has repeatedly threatened to prosecute voters and civil society organizations for running afoul of confusing vote-by-mail rules, chilling voting by mail by voters with disabilities who are in fact eligible to do so. Any voter who nonetheless does vote by mail faces myriad additional threats, including a decentralized and overwhelmed vote-by-mail system prone to administrative errors and discriminatory laws that allow their ballot to be trashed by local, partisan actors who can deem their signature invalid.

To be sure, Texas has been more proactive in making in-person voting safe and accessible, most notably by adding an additional week of early voting. But the State's hands-off approach to ensuring sufficient polling places and poll workers will produce, at best, a patchwork of voter access across Texas, determined by the resources and resolve of (already exhausted) local election officials.

Tragically, history and current data confirms that voters of Texas will not be evenly affected by the State's choices. Instead, Black and Latinx Texans, and particularly women of color, will suffer a heavier burden, as they have time and again.

¹ We are Texas lawyers for Texas communities, serving the rising movement for equality and justice in our state. Our Voting Rights Program tackles the systemic issues that suppress democratic participation in Texas—from voter registration to the moment when an individual casts their ballot. Learn more at https://www.texascivilrightsproject.org. I am deeply grateful for the work of TCRP's entire team, particularly given the heightened importance of our voting rights efforts in this presidential election year. Special thanks to attorney Zachary Dolling for his characteristically thorough and thoughtful assistance with preparing this testimony.

² Our committee conducted a study of voting rights in Texas in 2018, including an all-day public hearing in Houston in March 2018. Our findings were published in a report entitled Voting Rights in Texas, *available at* https://www.usccr.gov/pubs/2018/07-23-TX-Voting-Rights.pdf.

³ Considerations for Election Polling Locations and Voters, Centers for Disease Control, https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html.

Texas has the power to mitigate these problems—indeed, pages 15-19, below, provide a roadmap of commonsense steps the State can take, many of which have been recommended to the state by TCRP and other advocacy groups already. The question is whether Texas has the will.

II. TEXAS IS NOT PREPARED TO HOLD A FAIR AND SAFE ELECTION THIS NOVEMBER

A. Texas Continues to Fight Any Expansion of Voting by Mail

As of late August, voters in 44 states and the District of Columbia—representing 83% of the American electorate—will be able to vote by mail in the November 2020 election. Many of these jurisdictions have expanded access to vote by mail due to concerns over the coronavirus, either by permitting voters to cite concerns over the virus to qualify for a mail-in ballot or by automatically mailing every registered voter the required materials. This accelerated pace of expansion was sparked by the coronavirus pandemic, but it follows a growing bipartisan trend. Approximately 25% of all voters cast their ballots by mail in 2018. Those states permitting all voters to utilize mail-in voting during the November 2020 election are governed by an almost even split of Republican and Democratic governors. An April 2020 study from Stanford, based on vote-by-mail data spanning two decades, recently "confirm[ed] important conventional wisdom among election experts: vote-by-mail offers voters considerable convenience, increases turnout rates modestly, but has no discernible effect on party vote share or the partisan share of the electorate. And numerous empirical studies have demonstrated that the risk of mail-in ballot fraud is infinitesimally small.

Despite this, State officials—led by Texas Governor Greg Abbott and Attorney General Ken Paxton—have fought every commonsense opportunity to expand voting by mail for the more than 16.2 million registered voters of Texas during the COVID-19 pandemic. They have demanded an overly exclusionary interpretation of existing law, fighting in court to limit who qualifies as sufficiently "disabled" to be at-risk from the deadly virus. Paxton has engaged in a campaign of intimidation,

⁴ Kate Rabinowitz and Brittany Renee Mayes, *At least 83% of American Voters can cast ballots by mail in in the fall*, THE WASHINGTON POST, (Aug. 20, 2020), https://www.washingtonpost.com/graphics/2020/politics/vote-by-mail-states/.

⁵ Ic

⁶ Historically, the widespread use of mail-in voting enjoys bipartisan support from voters, party leaders and election officials. Dominique Erney and Wendy R. Weiser, Bipartisan Support for Expanded Mail Voting for 2020 Elections, THE BRENNAN CENTER FOR JUSTICE, (April 15, 2020), https://www.brennancenter.org/our-work/research-reports/bipartisan-support-expanded-mail-voting-2020-elections.

work/research-reports/bipartisan-support-expanded-mail-voting-2020-elections.

7 United States Election Assistance Commission, Election Administration and Voting Survey (2018), https://www.eac.gov/sites/default/files/eac_assets/1/6/2018_EAVS_Report.pdf.

⁸ Edward Perez, Open Source Election Technology Institute, The Bipartisan Truth About By-Mail Voting, (May 27, 2020), available at https://trustthevote.org/wp-content/uploads/2020/05/27May20_BipartisanTruth AboutBy-Mail Voting_v3.pdf.

Daniel M. Thompson, Jesse Yoder, Jennifer Wu and Andrew B. Hall, Stanford Institute for Economic Policy Research, The Neutral Partisan Effects of Vote-by-Mail: Evidence from County-Level Rollouts, (April 2020), available at https://siepr.stanford.edu/sites/default/files/publications/20-015.pdf.

¹⁰ See Wendy R. Weiser and Harold Ekeh, The False Narrative of Vote-by-Mail Fraud, THE BRENNAN CENTER FOR JUSTICE, (April 10, 2020), https://www.brennancenter.org/our-work/analysis-opinion/false-narrative-vote-mail-fraud; see also Elaine Karmack and Christine Stenglein, Low rates of fraud in vote-by-mail states show the benefits outweigh the risks, THE BROOKINGS INSTITUTION, (June 2, 2020), https://www.brookings.edu/blog/fixgov/2020/06/02/low-rates-of-fraud-in-vote-by-mail-states-show-the-benefits-outweigh-the-risks/.

threatening criminal prosecution of local leaders, community organizers and civic engagement groups who encourage others to vote by mail. The Texas Supreme Court proclaimed a "don't ask, don't tell" framework that is confusing to voters and has predictably sparked further legal action between state and local officials. In fact, just last week, the Texas Secretary of State (who answers to Governor Abbott) sued Harris County (home to Houston) officials when they took the Texas Supreme Court at its word and mailed vote-by-mail applications to all registered voters with instructions modeled from that decision. On top of all of this, Abbott and other officials have steadfastly ignored warnings from the U.S. Postal Service about its inability to deliver ballots in accordance with existing Texas law.

The State is well aware—and its own data reflects—that Black and Latinx Texans will bear the brunt of its actions. ¹¹ These communities make up the overwhelming percentage of Texans who have been diagnosed with or died from COVID-19, and Texans of color are far less able to access healthcare than their White counterparts. ¹² Recent polls reflect public perception of this disparity: 63% of Black and 65% of Latinx Americans see in person voting "risky" compared to just 45% of White Americans. ¹³ Furthermore, women are significantly more likely than men to have taken on additional caregiving duties during the pandemic, ¹⁴ so it is no surprise that 57% of woman see leaving the house to vote as "risky" compared to 47% of men. ¹⁵

Nevertheless, as chronicled in greater detail below, the State is fighting tooth and nail to limit our ability to safely vote remotely, even as the coronavirus has already infected more than 630,000 Texans

11 See, e.g., Texas Department of State Health Services COVID-19 Dashboard, Case Demographics,

https://txdshs.maps.arcgis.com/apps/opsdashboard/index.html#/ed483ecd702b4298ab01e8b9cafc8b83. 12 See, e.g., id.; Emma Platoff and Carla Astudillo, Across Texas and the nation, the novel coronavirus is deadlier for people of color, THE TEXAS Tribune, (July 30, 2020), https://www.texastribune.org/2020/07/30/texascoronavirus-deaths/; Health Equity Considerations and Racial and Ethnic Minority Groups, Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/community/healthequity/race-ethnicity.html; Lena H. Sun, CDC: Covid-19 death toll is twice as high among people of color under age 65 as for white Americans, THE WASHINGTON POST, (July 10, 2020), https://www.washingtonpost.com/ health/2020/07/10/cdc-covid-19-death-toll-is-twice-high-among-people-color-under-age-65-whiteamericans/; Soo Rin Kim, Matthew Vann, Laura Bronner, and Grace Manthey, Which Cities Have The Biggest Racial Gaps in COVID-19 Testing Access?, FIVETHIRTYEIGHT.COM, (July 22, 2020), https://fivethirtyeight.com/features/white-neighborhoods-have-more-access-to-covid-19-testing-sites/; James Barragan, Texas to begin study of COVID-19 effects on black, Latino populations. Analysis due in fall, THE DALLAS MORNING NEWS, (June 5, 2020), https://www.dallasnews.com/news/2020/06/05/texas-to-beginstudy-of-covid-19-effects-on-black-latino-populations-analysis-due-in-fall/ 13 Margaret Talev, Axios-Ipsos poll: Fear of Voting, AXIOS.COM, (Aug. 4, 2020), https://www.axios.com/axiosipsos-poll-democrats-fear-voting-cd1325d4-2347-4b2d-a41a-18ff447c0a32.html

14 See, e.g., Diana Boesch and Katie Hamm, Center for American Progress, Valuing Women's Caregiving During and After the Coronavirus Crisis, (June 4, 2020), available at https://cdn.americanprogress.org/content/uploads/ 2020/06/03111448/WomenCaregiving-brief.pdf; Kathy Caprino, How The Pandemic Is Negatively Impacting Women More Than Men, And What Has To Change, FORBES.COM, (July 13, 2020), https://www. forbes.com/sites/kathycaprino/2020/07/13/how-the-pandemic-is-negatively-impacting-women-more-thanmen-and-what-has-to-change/; Liza Hamel and Alina Salganicoff, Is There a Widening Gender Gap in Coronavirus Stress, KAISER FAMILY FOUNDATION, (April 6, 2020), https://www.kff.org/policy-watch/is-there-wideninggender-gap-in-coronavirus-stress/; Women, Caregiving, and COVID-19, Centers for Disease Control and Prevention, https://www.cdc.gov/women/caregivers-covid-19/index.html. Margaret Talev, Axios-Ipsos poll: Fear of Voting, AXIOS.COM, (Aug. 4, 2020), https://www.axios.com/axiosipsos-poll-democrats-fear-voting-cd1325d4-2347-4b2d-a41a-18ff447c0a32.html

in total through close person-to-person contact. The consequences are sure to be devastating—both on the right to vote and on Texans' health—and to disproportionately impact communities of color and women of color in particular.

i. The State's Legal Battles to Limit Voting by Mail

There has been extensive litigation in Texas around expanding voting by mail in recent months. As discussed in greater detail below, the State was first sued in Texas district court, where it lost. The State appealed this decision but then sidestepped the appeals process by bringing an original proceeding in the Texas Supreme Court. At the same time, the State was sued in federal district court, where it again lost. The United States Court of Appeals for the Fifth Circuit stayed the federal district court's ruling, after which the Texas Supreme Court issued its opinion. As of today's date, the only judgment remaining in force is that of the Texas Supreme Court while a subsequent decision of the Fifth Circuit remains pending.

a. State Trial Court Litigation

Immediately after the onset of the pandemic in early March, TCRP and other civil rights groups sent a letter to the State with a simple argument: a lack of immunity to the coronavirus is a "disability" as defined in the Texas Election Code, i.e., "a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter's health." Decause the Code permits any qualified voter with a "disability" to vote by mail, all non-immune voters should therefore be able to vote by mail. It was a commonsense interpretation of existing law that, if accepted by the State, would have opened up the option to vote by mail to tens of millions of eligible Texas voters.

The State was silent. Then, on these same grounds, the Texas Democratic Party and several voters sued the Travis County Clerk and the Texas Secretary of State in Texas state court. More voters and organizational plaintiffs, represented by the TCRP and other advocacy groups, quickly intervened, as did the State of Texas.

The court heard evidence on April 15 and issued a written temporary injunction on April 17, holding that a lack of immunity to the virus "meet[s] the plain language definition of disability" because it is "reasonable to conclude that voting in person while the virus . . . is still in general circulation presents a likelihood of injuring [the voter's] health." ¹⁹ The State immediately appealed, staying the

¹⁶ Letter to Texas Secretary of State Ruth Hughs, (March 17, 2020), available at https://texascivilrightsproject.org/wp-content/uploads/2020/03/Letter-to-SOS-re--Coronavirus.pdf.
¹⁷ Tex. Elec. Code § 82.002.

¹⁸ The Election Code limits voting by mail to those who (1) are 65 or older at the time of the election; (2) expect to be out of their county of residence on election day; (3) are confined in jail but otherwise eligible to vote; or (4) have a disability. *Id.* at §§ 82.001–004.

¹⁹ Tex. Democratic Party v. Debeauvoir, No. D-1-GN-20-001610 (201st Dist. Ct., Travis County, Tex. Apr. 17, 2020), available at https://countyclerk.traviscountytx.gov/images/pdfs/OrderonApplicationForTemporaryInjunctionsAndPleaToTheJurisdiction.pdf.

injunction. On May 14, the Texas Fourteenth Court of Appeals granted an emergency motion to reinstate the injunction pending final resolution of the appeal.²⁰

Rather than wait for regular resolution of the appeal, Texas sidestepped the process by bringing an original proceeding seeking a contrary holding in the Texas Supreme Court. The Texas Supreme Court obliged, and issued its decision, explained below, on May 20.

b. Paxton's Campaign of Intimidation

While this dispute played out in the state courts, Paxton engaged in a jaw-dropping campaign to undermine the district court's decision by intimidating voters and grassroots organizations.

On April 14, one day prior to the district court's bench ruling, Paxton sent a letter to the Chair of the Texas House Elections Committee stating that any third party who advised voters to apply for a mail-in ballot on the basis of "fear" of the coronavirus would be subject to criminal sanctions. ²¹ That same day he took to Twitter to denounce the specter of voter fraud if vote by mail were expanded:



Then, on April 15, immediately after the Texas district court's bench ruling, he issued a press release stating the court had "unlawful[ly]" expanded vote by mail and "undermine[d] the security and integrity of our elections," thereby "facilitat[ing] fraud." ²² Paxton misleadingly claimed that the district

²⁰ State v. Tex. Democratic Party, --- S.W. 3d ----, 2020 WL 3022949, at *1 (Tex. App.—Houston [14th Dist.] May 14, 2020, no pet.).

²¹ Letter from Ryan M. Vassar, Deputy Att'y Gen. for Legal Counsel, Att'y Gen. of Tex., to Stephanie Klick, Chair, Comm. on Elections, Tex. House of Representatives (Apr. 14, 2020), available at https://www.texasattomevgeneral.gov/sites/default/files/images/admin/2020/Press/4.14.20%20Letter%20 to%20Rep.%20Klick.pdf.

²² Texas Attorney General Press Release, AG Paxton: Voting by Mail Because of Disability Must be Reserved for Texans Suffering from Actual Illness or Mental Problems, (April 15, 2020), available at https://www.texasattomeygeneral.gov/news/releases/ag-paxton-voting-mail-because-disability-must-be-reserved-texans-suffering-actual-illness-or-medical.

court had ruled that fear of the coronavirus constituted a disability, rather than a lack of immunity.²³ Finally, on May 1, he issued a statewide letter to all Texas's county judges and county election officials. He again misstated the district court's ruling and warned that advising voters to apply to vote by mail due to fear of the coronavirus constituted criminal election fraud.²⁴

To be clear: Paxton's letters and tweets lack the force of law. Particularly as the courts were quickly acting to address the underlying legal dispute, Paxton's acts served no discernable legitimate purpose—instead, they were naked attempts to use the power of the State of Texas to intimidate Texans from voting. Indeed, as explained below, his threats of criminal prosecution were so blatantly egregious that a federal district court later ruled he had likely violated the First Amendment as well as the Voting Rights Act of 1965.

c. Federal Court Litigation

While the state litigation was pending, the Texas Democratic Party and voters filed suit in federal court in San Antonio challenging Texas's mail-in ballot scheme as unconstitutional and naming Paxton, among others, as a defendant. After the Texas district court issued its temporary injunction, but before the Texas Supreme Court had weighed in, the plaintiffs moved for a preliminary injunction. They sought much the same relief as in state court and additionally requested the court enjoin the defendants from threatening voters and others with criminal prosecution.

The federal district court issued the preliminary injunction on May 19. It found that Texas's mail-in ballot statute, as applied during the pandemic, likely violates: (1) the Twenty-Sixth Amendment by allowing voters 65 and over the safe option of voting by mail but not those younger; (2) the Equal Protection clause, because it places an unjustified burden on the right to vote; and (3) the Due Process clause, because it is impermissibly vague. ²⁶ As part of the latter finding, the court pointed to Paxton's threats to prosecute voters and election officials "who seek to comply with a state court order" as additional evidence of a "lack of guidelines." ²⁷ The court also held that Paxton had likely violated the First Amendment because his threats suppressed political speech, including the right to vote, as well as the Voting Rights Act of 1965, because his actions amounted to voter intimidation. ²⁸

The State immediately appealed to the United States Court of Appeals for the Fifth Circuit, which quickly stayed any changes to the vote-by-mail law.²⁹ Appellate proceedings are ongoing and oral argument was heard on August 31, 2020,³⁰ but a lift of the stay after full briefing seems unlikely.

²³ Id.

²⁴ Ken Paxton, Att'y Gen. of Tex., Opinion Letter on Ballot by Mail Based on Disability to County Judges and County Election Officials, (May 1, 2020), available at https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/Mail-in%20Ballot%20Guidance%20Letter_05012020.pdf.

²⁵ Texas Democratic Party et al. v. Abbott et al., 5:20-cv-00438-FB, Doc. 1, Complaint (W.D. Tex. 2020).

²⁶ Tex. Democratic Party v. Abbott, --- F. Supp. 3d ----, 2020 WL 2541971, at *26–28, 29–30, 31–32 (W.D. Tex. May 19, 2020).

²⁷ Id. at *30. ²⁸ Id. at *28–29.

²⁹ See Hinojosa v. Abbott, 2020 WL 2616080 (5th Cir. May 20, 2020) (per curiam); Tex. Democratic Party v. Abbott, 961 F.3d 389 (5th Cir. June 4, 2020).

³⁰ See generally Tex. Democratic Party v. Abbott, No. 20-50407 (5th Cir. May 19, 2020).

d. Texas Supreme Court Decision

The Texas Supreme Court issued its opinion on May 20, focusing on whether lack of immunity to the coronavirus constitutes a "physical condition" posing a "likelihood of injury" to the voter's health, both of which are required for it to qualify as a "disability" under the Texas Election Code. Seven of the nine justices held that a lack of immunity alone never constitutes a "physical condition" under the first prong of the definition. ³¹ Two justices disagreed, but nevertheless determined that the requirement of a "likelihood" of injury necessitates a voter-by-voter analysis that precludes broadly allowing *all* eligible voters lacking immunity to qualify to vote by mail solely on that basis. ³²

In the end, what all nine justices agreed upon was that Texas had "placed in the hands of the voter the determination of whether in-person voting will cause a likelihood of injury due to a physical condition," based on the voter's own assessment of the totality of their circumstances, and that local election officials have no duty to inquire into why any voter has requested a mail-in ballot on the basis of a disability. The Court otherwise provided little guidance on what other factors a voter may or should take into consideration in carrying out this self-assessment, such as whether serious underlying conditions or comorbidities that increase the risk posed by the coronavirus would provide a lawful basis, in combination with a lack of immunity, for voting by mail.

The Texas Supreme Court's ruling is, for now, the confusing final word. This means Texans must judge for themselves whether they are eligible to vote by mail during the pandemic, balancing that a lack of immunity to coronavirus can be one criteria but not the sole criteria. Voters should be able to seek comfort in the Texas Supreme Court's admonishment that county election officials are expected to take voters at their word. But Paxton's threats of criminal prosecution still loom. As election law expert Professor Richard Hasen summarized, the Texas Supreme Court's ruling has made "a Lone Star-size mess of the state's law on [mail] balloting" and its "don't ask don't tell policy is a recipe for disaster" that "leave[s] open the possibility for Paxton to frighten possibly qualifying voters into not voting, or to go after those who do." ³⁵

ii. Now, the State is Seeking to Stymie Local Election Officials

Caught in the middle are local election officials who have been forced to navigate the confusing legal guidance while preparing for the predictable surge in voting by mail. After seeing a 100% increase in the number of applications for mail-in ballots between March and July, election officials in Harris County (home to Houston) sent applications to every registered voter over the age of 65 prior to the July runoff. More recently, Hidalgo County (home to McAllen) and Bexar County

³¹ In re State, 602 S.W.3d 549, 549–561 (Tex. 2020) (Hecht, C.J., joined by Justices Green, Guzman, Lehrmann, Devine, Blacklock, and Busby).

³² Id. at 563-67 (Boyd, J., concurring), 567-73 (Bland, J., concurring).

³³ Id. at 561; see id. at 562-63 (Guzman, J., concurring) (distilling the court's ultimate ruling).

³⁴ In a rare rebuke, Justice Bland singled out Texas's voter fraud concerns, noting that "the possibility of fraud does not allow for the disenfranchisement of eligible voters who complete an application of a mail-in ballot according to the Election Code." *In re State*, 602 S.W.3d at 572 (Bland, J. concurring).

³⁵ Richard Hasen, Texas Voters Faxe Malicious Prosecutions After COVID-19 Absentee Ballot Ruling, SLATE.COM (May 27, 2020), https://slate.com/news-and-politics/2020/05/texas-supreme-court-voters-covid-19-absentee-ballot.html.

Mexa Ura, Texas' most populous county sending mail-in ballot applications to millions of registered voters, THE TEXAS TRIBUNE, (Aug. 25, 2020), https://www.texastribune.org/2020/08/25/texas-vote-by-mail-harris/.

(home to San Antonio) have similarly decided to send applications to registered voters who are 65 and older prior to the November election. 37 Travis County (home to Austin) is considering the same. 36

On August 25, 2020, Harris County announced that it intends to send applications for mailin ballots for the November election to all 2.4 million-plus of its registered voters, with instructions on eligibility drawn from the Texas Supreme Court's decision.³⁰ Two days later, Keith Ingram, Director of Elections for Texas Secretary of State Ruth Hughs, sent the county a letter demanding the county "immediately halt" this plan because it would supposedly lead to voter fraud. 40 He threatened that the Secretary would take "appropriate steps" under the Election Code-which allows the Secretary to "seek enforcement of [her] order[s]" through a lawsuit filed by the Attorney General—if the county refused to comply. 41 The county replied by stating that it would include detailed guidance on who qualifies to vote by mail along with its mailing, and that it believed "[p]roviding more information and resources to voters is a good thing, not a bad thing."42

On August 31, Paxton sued Harris County officials on behalf of the State, supported by a declaration from Keith Ingram, in local state court. 43 The State seeks an injunction preventing the Harris County Clerk from sending every registered voter a vote-by-mail application because doing so would allegedly be in excess of his legal authority.44 That same day, the Harris County Republican Party, joined by a Republican nominee for Harris County district court and an individual voter, also sued Harris County, this time in an original proceeding at the Texas Supreme Court. 45 They seek the same: an order prohibiting Harris County from sending applications to all registered voters.

The State's aggressive litigation tactics once again proved successful. On September 1, Harris County Clerk Chris Hollins decided to put the county's broader plan on hold until resolution of the State's case, but to continue sending applications to voters 65 and over. 47 This voluntary decision became compulsory the next day when the Texas Supreme Court granted the emergency motion before it and ordered Hollins "to refrain from sending applications to vote by mail to registered voters under the age of 65 who have not requested them until five days after a temporary injunction ruling

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Alexa Ura, Texas tells Harris County to balt plan to send all voters applications for mail-in ballots, THE TEXAS TRIBUNE, (Aug. 28, 2020), https://www.texastribune.org/2020/08/28/mail-in-ballots-texas-harris-county/; Letter from Keith Ingram, Director of Elections for the Texas Secretary of State's Office to Chris Hollins, Harris County Clerk, (Aug. 27, 2020), available at https://static.texastribune.org/media/files/9078f160593df 832d2704969c73628c5/SOSLetter HarrisCountyVBM.pdf.

⁴¹ Id. (citing Tex. Elec. Code § 31.005).

⁴² Alexa Ura, Texas tells Harris County to halt plan to send all voters applications for mail-in ballots, THE TEXAS TRIBUNE, (Aug. 28, 2020), https://www.texastribune.org/2020/08/28/mail-in-ballots-texas-harris-county/. 43 State of Texas v. Hollins, No. 2020-52383 (61st Dist. Ct., Harris County, Tex. Aug. 31, 2020).

⁴⁴ See id., Original Petition for Writ of Mandamus.

⁴⁵ In re Steven Hotze, M.D., Harris County Republican Party, and Sharon Hemphill, No. 20-0671 (Tex. Aug. 31, 2020), docket available at http://search.txcourts.gov/Case.aspx?cn=20-0671&coa=cossup. 46 Id.

⁴⁷ Schaefer Edwards, Harris County Clerk Holds Off On Mail-In Ballot Application Plan, For Now, HOUSTON PRESS, (Sept. 1, 2020), https://www.houstonpress.com/news/harris-county-clerk-reverses-on-mail-in-ballotapplications-11492468.

in [the other case.]" ⁴⁸ This mess prompted even private business leaders to weigh in; Charles Butt, the C.E.O. of H.E.B—a beloved grocery retailer and Texas's largest private employer—sent a letter to the Court that same day stating that "[i]t's always been my impression that the more people who vote, the stronger our democracy will be" and commenting that the Court's decision appeared to put its "non-partisan reputation . . . in jeopardy."

The Secretary of State's actions here stand in stark contrast to her repeated claims in federal court that the Texas Election Code does not grant her office the authority to force local election authorities to do *anything*. Her actions against Harris County also further call to question her failure to provide oversight of other aspects of voting, including her failure to ensure a sufficient number of polling places in each county.

iii. Texas's Inaction Despite Warnings from the U.S. Postal Service

On July 30, 2020, the United States Postal Service warned the Texas Secretary of State that Texas's "deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards," which "creates a risk that [mail-in] ballots requested near the deadline under state law will not be returned by mail-in time to be counted." ⁵¹

Governor Abbott has previously claimed and exercised emergency power during the pandemic to alter or suspend certain deadlines and requirements under the Election Code. ⁵² On August 24, 2020, 48 civil rights organizations, including TCRP, wrote to Abbott explaining several actions he could take to alter or suspend vote by mail-related deadlines and requirements under the Election Code and mitigate the risk identified by the Postal Service. ⁵³ The organizations took no stance on whether this

⁴⁸ In re Steren Hotze, M.D., Harris County Republican Party, and Sharon Hemphill, No. 20-0671 (Tex. Aug. 31, 2020), Miscellaneous Order of September 2, available at https://www.txcourts.gov/supreme/orders-opinions/2020/september/september-2-2020/.

⁴⁹ Abigail Rosenthal, H-E-B- ČEO backs Harris County Clerk's plan for mail-in ballots in letter to Texas Supreme Court, HOUSTON CHRONICLE, (Sept. 3, 2020), https://www.houstonchronicle.com/business/article/H-E-B-s-Charles-Butt-backs-Harris-County-clerk-s-15540627.php.

⁵⁰ Texas Secretary of State's Motion for Summary Judgment, Richardson et al. v. Texas Secretary of State et al., 5-19-cv-00963, Doc. 70 at 11–13 (W.D. Tex. 2019) ("IT]he Secretary cannot compel local election elections to review mail-in-ballot applications in any particular way" and can at most issue non-binding "advice"); Texas Secretary of State's Response to Plaintiffs' Motion for Summary Judgment, Flores et al. v. Hughs et al., 7-18-cv-113, Doc. 96 at 2–3 (S.D. Tex. 2018) (The Texas Election Code "does not provide [the Secretary] the power to coerce local officials" and "the Secretary is empowered to provide advice and guidance to election officials, but the Secretary cannot force compliance.").

⁵¹ Letter from Thomas Marshall to Secretary of State Ruth Hughs, (July 30, 2020), available at https://drive.google.com/file/d/1UGSxc9XcMv8oaCn1-9UZL86bA4-xi5iA/view.

⁵² See Proclamation of Governor Greg Abbott, (Mar. 20, 2020), available at https://gov.texas.gov/uploads/files/press/PROCLAMATION COVID-19 May 26 Primary Runoff Election 03-20-2020.pdf.

Proclamation of Governor Greg Abbott, (May 11, 2020), available at https://gov.texas.gov/news/post/governor-abbott-issues-proclamation-regarding-july-4th-early-voting-for-special-runoff-elections;

Proclamation of Governor Greg Abbott, (July 27, 2020), available at https://gov.texas.gov/news/post/governor-abbott-issues-proclamation-extending-early-voting-period-for-november-3rd-election.

53 Letter to Governor Abbott, (August 24, 2020), available at https://txcivilrights.org/wp-content/uploads/2020/08/Letter-to-Governor-re-Post-Office-Issues.pdf. This included suggestions to (1) require county election officials to accept mail-in ballots up to seven days after Election Day, so long as postmarked by 7 p.m. on that day or delivered via a type of mail not subject to postmarking; (2) eliminate the requirement

or any previous exercise of emergency powers was lawful. Instead, they noted that such action would be consistent with the Governor's previous conduct and would alleviate the concerns identified by the Postal Service. 54 Abbott has yet to take any action in response.

iv. Flaws in the Texas Election Code's Implementation of Vote by Mail

Making matters worse, the State's most recent efforts to limit safe voting opportunities rest on top of already problematic law. Under the Texas Election Code, local election officials are permitted to reject a voter's mail-in ballot based on their subjective, untrained determination that the voter's signatures do not match, and to withhold notice of that rejection until after the election. The Code also draws an arbitrary distinction between "regular" mail-in ballot and "emergency" ballot voters, so that an individual's ability to submit an absentee ballot may depend entirely on when they are diagnosed with coronavirus (or any other debilitating illness)—even if that occurs substantially prior to the election. TCRP is challenging these unlawful statutes in court, but may not be able to achieve a victory in time to help Texas voters this fall. Of course, even with record evidence of the ways these discriminatory laws suppress voting, the State continues to defend them.

a. The Signature Matching Process

The Texas Election Code generally requires a panel of volunteers from the community, called the Early Voting Ballot Board ("EVBB"), to determine whether to accept or reject a mail-in ballot. 55 In practice, EVBBs are often composed of party activists. The EVBB must compare the signature on a voter's application to vote by mail with the signature on the carrier envelope containing the ballot. 56 If the EVBB determines these signatures do not match, it may reject the ballot. 57 It is not required to inform the voter that their ballot has been rejected until 10 days *after* the election, at which point the voter has no recourse. 58

Expecting layperson panels of volunteers to make this signature determination is obviously flawed on its face; worse, these volunteers regularly have strong ideological views about the "right" election results. Errors are guaranteed and voters who have complied with every requirement of the Election Code will nonetheless be disenfranchised. Moreover, national studies show that people of color are more likely to have their ballots rejected, raising significant race equity concerns.⁵⁹

that mail-in ballot applications submitted electronically be followed by a hard copy via mail; (3) allow voters to deliver a marked mail ballot in person to secure, county-controlled boxes located at early voting sites and/or early voting clerk offices, consistent with how ballots are deposited in the mail under all other circumstances.

⁵⁴ Id.

⁵⁵ Tex. Elec. Code § 87.001 et seq.

⁵⁶ Id. at § 87.041(b)(2).

⁵⁷ Id.

⁵⁸ Id. at § 87.043.

⁵⁹ See Jane C. Timm, A white person and a Black person vote by mail in the same state. Whose ballot is more likely to be rejected?, NBC NEWS, (Aug. 9, 2020), <a href="https://www.nbcnews.com/politics/2020-election/white-person-black-person-vote-mail-same-state-whose-ballot-n1234126; see also Daniel A. Smith, American Civil Liberties Union of Florida, Vote-By-Mail Ballots Cast in Florida, (Sept. 19, 2018), available at https://www.aclufl.org/sites/default/files/aclufl-vote-by-mail-report.pdf (review of 2012 and 2016 general election data in Florida shows that younger and racial and ethnic minority voters are significantly more likely than older and white voters to have their mail-in ballots rejected, including for alleged signature mismatches); Anna Bariner,

Similar signature matching statutes have been struck down by federal courts in New Hampshire, Illinois, Florida, Georgia, and North Dakota.⁶⁰

Two Texas voters whose ballots were incorrectly rejected and several community organizations, represented by TCRP, sued last year to challenge the signature comparison process. The federal district court is expected to issue a final judgment soon. Unfortunately, in recent court filings, the State has already signaled its intention to immediately try to block any pro-voter ruling from going into effect prior to November.

b. Emergency Ballot Discrepancies

Under Texas law the deadline to apply for a mail-in ballot under the "disability" qualification is 11 days prior to Election Day. 62 If a voter becomes disabled after this deadline they must apply for a so-called "emergency absentee" ballot. 63 This requires them to submit a doctor's certification confirming their illness. 64 In contrast, regular mail-in ballot voters are not required to "prove" their illness or disability.

Two instances of late-identified disabilities during the July primary run-off cast this differential treatment into stark relief. Linda Harrison was diagnosed with the coronavirus on the cutoff day to apply for a mail-in ballot, and her husband Vernon Webb was diagnosed one week later. Both were ordered by county health officials to strictly quarantine and thus could not vote in person. It was only one day before the election that they learned they needed a doctor's note to cast an emergency ballot and, given the strain on healthcare workers, had difficulty reaching their providers on short notice. TCRP represented them in an Election Day litigation but was unsuccessful. Ms. Harrison's doctor got back to her that same evening and she managed to cast her ballot at the last minute, after a TCRP intern hand-delivered it to the clerk's office four minutes before the deadline. Mr. Webb was not able to vote.

Michael C. Herron, Daniel A. Smith, Election Law Journal, Voting by Mail and Ballot Rejection: Lesson from Florida for Elections in the Age of the Coronavirus, (April 25, 2020), available at https://electionscience.clas.ufl.edu/files/2020/04/Baringer Herron Smith VBM FL.pdf (similar conclusion based on data from 2016 and 2018 general elections in Florida); Enrijeta Shino, Mara Suttmann-Lea, Daniel A. Smith, Election Law Journal, Voting by Mail in a VENMO World: Assessing Rejected Absentee Ballots in Georgia, (May 19, 2020), available at https://electionscience.clas.ufl.edu/files/2020/05/GA Venmo.pdf (similar conclusion for 2018 general election in Georgia).

⁶⁰ Democratic Exec. Comm. of Fla. v. Detzner, 347 F. Supp. 3d 1017 (N.D. Fla. 2018); Democratic Exec. Comm. of Fla. v. Lee, 915 F.3d 1312 (11th Cir. 2019); Fla. Democratic Party v. Detzner, 2016 WL 6090943 (N.D. Fla. Oct. 16, 2016); Martin v. Kemp, 341 F. Supp. 3d 1326 (N.D. Ga. 2018); Saucedo v. Gardner, 335 F. Supp. 3d 202 (D.N.H. 2018); Zessar v. Helander, 2006 WL 642646 (N.D. III. March 13, 2006); Self Advocacy Solutions N.D. v. Jaeger, --- F. Supp. 3d ---, 2020 WL 2951012 (D. N.D. June 3, 2020).
61 Richardson et al. v. Texas Secretary of State et al., 5-19-cv-00963 (W.D. Tex. 2019); see also Flores et al. v. Hughs et

⁶¹ Richardson et al. v. Texas Secretary of State et al., 5-19-cv-00963 (W.D. Tex. 2019); see also Flores et al. v. Hughs et al., 7-18-cv-113 (S.D. Tex. 2018) (similar challenge to signature matching procedure).
62 Tex. Elec. Code § 84.007(c).

⁶³ Id. at § 102.001 et seq.

⁶⁴ Id. at § 102.002.

⁶⁵ Alexa Ura, It took a doctor's note and mad dash to Sonic for this coronavirus sufferer to vote, THE TEXAS TRIBUNE, (July 14, 2020), https://www.texastribune.org/2020/07/14/texas-coronavirus-mail-in-ballot/; Paul Flahive, It's Ridiculous': States Struggle To Accommodate COVID-19 Positive Voters, NPR.ORG, (AUG. 9, 2020),

In July, an estimated 99,000 Texans were diagnosed with coronavirus between the deadline for a "regular" mail-in ballot and Election Day. ⁶⁰ Still today, thousands of Americans are contracting the coronavirus on a daily basis and there is no indication that things will significantly improve by November. ⁶⁷ It is inevitable that some Texas voters will contract the coronavirus (or any other debilitating illness) after the regular mail-in ballot deadline and ultimately be disenfranchised due to this arbitrary, differential treatment.

v. Texas is not Prepared for the Anticipated Increase in Mail-in Ballots

Despite the State's efforts to limit voting by mail, it surged during Texas's July Primary Runoff. And, just as predictably, Texas's election infrastructure showed signs of severe strain. TCRP spearheads the Texas Election Protection Coalition, and we received thousands of reports from voters across Texas who experienced difficulties voting. This included a host of administrative and logistical challenges with voting by mail—reports of mail-in ballots being returned to voters because of a problem scanning barcodes on the return envelopes correctly, of voters receiving mail-in ballots with labels misidentifying their reason for qualifying, of voters having trouble accessing emergency ballots after having been infected by the coronavirus, of voters receiving their mail-in ballots too late to return before the election, and of voters flat-out not receiving their mail-in ballots at all. 68

Given that the number of people voting by mail this November will be substantially higher, the need to bolster Texas's vote by mail infrastructure to handle what may be a vote-by-mail tsunami is clear. These practical difficulties—in conjunction with the State's proven hostility to the concept, the Attorney General's threats of prosecution, the Secretary of State's litigation against local jurisdictions, and the State's refusal to take action to accommodate the U.S. Postal Service's delivery standards—threaten to significantly suppress access to the ballot this November. We fear that historically marginalized voters will bear the brunt of this suppression, particularly Black and Latinx Texans and women.

B. While Texas Has Expanded the Period of Time for In-Person Voting, State Officials Have Failed to Take Other Critical Steps

On July 27, Governor Abbott used his emergency powers to take two important steps toward facilitating safe in-person voting this November: adding six days to the early voting period, so that it now spans from Tuesday, October 13 through Friday, October 30, and allowing voters to cast mailin ballots in person to the early voting clerk's office prior to and on Election Day. Both are

 $\label{lem:https://www.npr.org/2020/08/09/900317332/it-s-ridiculous-states-struggle-to-accommodate-covid-positive-voters.$

⁶⁶ See Cases over Time by County, Texas COVID-19 Data, Texas Department of State Health Services, available at https://dshs.texas.gov/coronavirus/
TexasCOVID19DailyCountyCaseCountData.xlsx. The difference in total coronavirus cases Texas reported on July 2 (the last day to apply for an application to vote by mail, with a total of 175,977 cases) and July 14 (the day of the election, with a total of 275,058 cases) is 99,081 cases.

⁶⁷ See COVID-19 Projections, The Institute for Health Metrics and Evaluation, University of Washington, available at https://covid19.healthdata.org/united-states-of-america; see also COVID-19 Forecasts: Deaths, Centers for Disease Control and Prevention, available at https://www.cdc.gov/coronavirus/2019-ncov/covid-data/forecasting-us.html.

⁶⁸ A TCRP report chronicling these issues and making recommendations to Texas election officials is forthcoming and will be provided to this Committee as soon as it is released.

commendable acts and, as noted in this proclamation, will promote "appropriate social distancing and safe hygiene practices."

At the same time, State officials have failed to take other commonsense steps to ensure that in-person voting in Texas actually comports with CDC recommendations—or with Texas law. The Texas Secretary of State (who answers directly to Texas Governor Greg Abbott) is the chief election official of Texas by law, and has a responsibility to ensure that the voting experience is uniform and that state laws are followed. That's why her inaction around polling places and poll workers is deeply troubling, particularly when contrasted with her aggressive actions to halt Harris County from broadly mailing vote-by-mail applications.

Critically, the CDC recommends "maintain[ing] or increas[ing] the total number of polling places available to the public on Election Day to improve the ability to social distance." This directive is vitally important in Texas, given our dubious track record. As of September 2019, Texas had closed at least 750 polling places with impunity, 2 following the Supreme Court's disastrous 2013 Shelby County decision, which eliminated federal oversight of Texas's election practices. Numerous recent studies, including one released by TCRP earlier this year, 4 have confirmed that Texas counties routinely violate Texas law by providing too few polling places, with disparate impacts felt in communities of color. Indeed, after reviewing several of these studies and conducting its own investigation, The Guardian concluded in March 2020 that "the places where the [B]lack and Latinx population is growing by the largest numbers have experienced the vast majority of the state's poll site closures." And that was before the COVID pandemic added further complications to selecting and confirming polling places.

But Texas has taken an "it is what it is" approach, seemingly allowing each county to police itself. For instance, in a June 18, 2020 Election Advisory (No. 2020-19), the Secretary includes a section about polling place siting, but includes no directions whatsoever as to the quantity of polling places. There is no indication that State officials plan to provide any oversight as counties set polling places for the November election, not even to ensure that counties comply with the bare minimum required by current law, let alone to ensure that polling place decisions do not harm communities of color.

⁶⁹ See Proclamation of Governor Greg Abbott, (July 27, 2020), available at https://gov.texas.gov/news/post/governor-abbott-issues-proclamation-extending-early-voting-period-for-november-3rd-election. A partisan group has sued the State, seeking to roll back these additional early voting days. As of this date, nothing has happened in that litigation past the filing of the initial complaint. See generally Hotze et al. v. Hughs, No. D-1-GN-20-004344 (459th Dist. Ct., Travis County, Tex. Aug. 20, 2020).

⁷⁰ Considerations for Election Polling Locations and Voters, Centers for Disease Control, https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html.
71 Id.

The Leadership Conference Education Fund, Democracy Diverted: Polling Place Closures and the Right to Vote at 26–28, (Sept. 2019), available at http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf.
 Shelby County v. Holder, 570 U.S. 529 (2013).

⁷⁴ Letter to Secretary of State Ruth Hughs regarding Texas counties providing fewer polling places than required by law, (May 13, 2020), https://texascivilrightsproject.org/wp-content/uploads/2020/05/2020-05-13-SOS-Letter-Polling-Places.pdf.

⁷⁵ Richard Salame, Texas closes hundreds of polling sites, making it harder for minorities to vote, THE GUARDIAN, (Mar.

^{2, 2020),} https://www.theguardian.com/us-news/2020/mar/02/texas-polling-sites-closures-voting-

⁶ Election Advisory No. 2020-19 to County Clerks/Elections Administrators and County Chairs, June 18, 2020), available at https://www.sos.state.tx.us/elections/laws/advisory2020-19.shtml.

Moreover, during the March Primary Election and the July Primary Runoff Election, the Texas Election Protection Coalition received numerous reports of polling places opening late, or not at all, due to poll worker shortages. In March, for instance, several polling places in Travis County (home to Austin) opened late because poll workers decided to stay home at the last minute, citing fears of contracting COVID.⁷⁷ Bexar County (home to San Antonio) announced the closure of three polling places just days before the July election, leaving voters little time to receive notice of the change and plan accordingly. So far, several local election officials have publicly raised concerns about poll worker shortages, including officials in Tarrant County (home to Fort Worth) who described poll workers abruptly quitting before the July election when they realized voters would not be required to wear masks at the ballot box.⁷⁸

These are all ominous signs for November, particularly as poll workers are likely to be older Texans who are most at risk from COVID. 79 But the State has taken no active steps to assist counties with poll worker recruitment, instead leaving the process entirely in the hands of local election officials—with civil society organizations like TCRP trying to pick up their slack.

The State has also undermined another key tenant of CDC recommendations—the importance of masks at the polling place. Masks have emerged as one of our best tools to prevent the spread of COVID and are critical to community safety in situations where maintaining six feet of distancing is not feasible. Recognizing this, Governor Abbott issued a statewide mask mandate on July 2. But that mandate, Executive Order No. GA-29, exempts not just voters, *but poll workers and poll watchers*.⁸⁰

To be sure, requiring a voter to wear a mask as a condition for exercising her fundamental right to vote raises constitutional questions which may justify Abbott's decision. There is no apparent justification, however, for failing to require masks of poll workers—who are performing a paid service—or poll watchers—who are political party activists at the polls with limited rights to oversee the voting process. Instead, Abbott's decision further drags Texas voters into a Catch-22 between their safety and their right to vote. Because the State has refused to allow most Texans the opportunity to vote by mail, they must vote in person. But to vote in person, they must risk close encounters with

Ashley Lopez, Texas Elections Are Going To Be Hard To Staff, So Voting Groups Plan To Recruit Poll Workers, KUT.ORG, (May 27, 2020), https://www.kut.org/post/texas-elections-are-going-be-hard-staff-so-voting-groups-plan-recruit-poll-workers.

Alexa Ura, Two major Texas counties are trimming polling locations as workers pull out over coronavirus, THE TEXAS TRIBUNE, (July 9, 2020), https://www.texastribune.org/2020/07/09/1exas-voting-coronavirus/.

**See, e.g., John C. Mortiz, Texas primary runoffs: Despite COVID-19, poll workers prep for July 14 election, AUSTIN AMERICAN-STATESMAN, (Jun. 23, 2020), https://www.statesman.com/news/20200621/texas-primary-runoffs-despite-covid-19-pandemic-poll-workers-prep-for-july-14-election (87 percent of Texas poll workers are over 60); EAVS Deep Dive, U.S. Election Assistance Commission, available at https://www.eac.gov/sites/default/files/document_library/files/EAVSDeepDive_pollworkers_pollingplaces_nov17.pdf (24 percent of poll workers were 71 or older and 32 percent were between 61 and 70 during 2016 elections).

**Sexecutive Order GA-29 relating to the use of face coverings during the COVID-19 disaster, (July 2, 2020), available at https://open.texas.gov/uploads/files/organization/opentexas/EO-GA-29-use-of-face-coverings-during-COVID-19-IMAGE-07-02-2020.pdf.

⁸¹ Provided that masks are freely available to all voters, I believe that a mask mandate is constitutional under the Anderson-Burdick framework the U.S. Supreme Court has developed. See Anderson v. Celebrezze, 460 U.S. 780 (1983); Burdick v. Takushi, 504 U.S. 428 (1992).

people not wearing masks—a risk not present while grocery shopping, getting gas, or doing any other essential tasks.

III. RECOMMENDATIONS TO PROTECT TEXAS'S DEMOCRACY

The following commonsense steps can and should be taken immediately. Each is within the scope of power held by the Secretary of State's office or is consistent with the emergency power already exercised by Governor Abbott during this pandemic, pursuant to Section 418.016 of the Texas Government Code.

A. Secretary of State Recommendations

i. The Secretary of State should clarify "disability" standards for voting by mail and publicize those standards through a press release and via other robust public education efforts, including by requiring the standards be posted on each Texas county's website. TCRP has previously recommended the following clarifying language:

The Texas Supreme Court recently clarified that a voter is the one best situated to determine whether he or she has a "disability" that qualifies them to vote by mail under Texas law during the COVID pandemic.

To qualify under the disability standard, a voter must have a physical condition, "for example a heart condition," that presents a likelihood they will injure their health if they vote in person. The Court ruled that merely having a lack of immunity to COVID-19 without other underlying physical conditions does not make an individual eligible to vote by mail. But the Court further stated, "a voter can take into consideration aspects of his health and his health history that are physical conditions in deciding whether, under the circumstances, to apply to vote by mail because of disability." Factors to consider could include "the nature of the person's sickness or physical condition, the person's health history, the nature and level of the risk that in-person voting would pose in light of the particular sickness or physical condition, the adequacy of safety and sanitation measures implemented at and near the polling place to reduce that risk, and the level of caution the voter exercises."

Centers for Disease Control lists individuals with the following physical conditions as being part of "Groups at Higher Risk for Severe Illness" due to COVID-19, although voters must make individualized determinations based on all of their particular factors:

- Asthma
- Chronic kidney disease being treated with dialysis
- Chronic lung disease
- Diabetes
- Hemoglobin Disorders
- Immunocompromised
- Liver disease
- · Serious heart conditions

• Severe obesity

The County [Clerk/Election Administrator]'s Office accepts all mail ballot applications that have been properly marked—our office has no legal authority to administratively require voters to substantiate their disability at the time the application is submitted. Voters must determine whether they meet the eligibility guidelines for voting by mail based on their individual circumstances.

- ii. As counties are about to be faced with a significant uptick in voters seeking to vote by mail, the Secretary should also provide best practices to counties on mail-in voting. Best practices should include all counties mailing postage-paid vote-by-mail applications to all voters 65 or older. The Secretary should use her statutory authority to direct any available funds to counties to ensure timely processing of applications and mailing of ballots, including using any available funds (including from the recent stimulus package 8 passed by Congress) to pay for voters' postage.
- iii. No later than September 18, the Secretary should issue an "Election Advisory" to counties concerning polling place locations and set-up:
 - a. Strongly recommending that the number of polling places do not drop below 2016 levels. Any county planning more than a 2% reduction in polling places compared to 2016 must report that fact to your office by October 5 with justification. Counties should also calibrate the number of polling places to account for population growth in the intervening years.
 - Requiring counties to post their planned polling locations for Election Day by October 5.
 - c. Issuing new guidelines around curbside voting so that eligible voters can be processed as they drive up to designated areas without them having to go inside to request curbside voting.
 - d. Emphasizing the requirement that polling places comply with the Americans with Disabilities Act.
- iv. The Secretary should provide detailed guidance for all Early Voting Ballot Board and Signature Verification Committee members on how to verify signatures on mail-in ballots. Recommend a uniform notice and cure process that requires election officials to provide meaningful notice of prior to rejecting a mail-in ballot (by mail as well as by phone and/or email if such information is provided on a voter's Application for Ballot by Mail or Federal Post Card Application), and a simple verification procedure to prevent the rejection of their mail-in ballot that can be completed by the voter inperson, by mail, over the phone, or through email or fax.
- The Secretary should put out a state-wide call for high school and college students to
 enroll in local Student Poll Worker Programs to supplement an anticipated decline in
 poll worker availability.

- vi. The Secretary should use her statutory authority to ensure that every county has sufficient funding to buy the Personal Protective Equipment necessary to fulfill the recommendations in the Secretary of State's Health Protocols, including funds to provide: masks to all poll workers, poll watchers and voters; ample hand sanitizer and disinfectant cleaning supplies for all polls; and tape to mark six-foot increments. She should also create and distribute to counties signage about best hygiene practices as envisioned by the Secretary of State's Health Protocols.
- vii. She should also create and distribute to counties updated poll worker trainings so that the workers are ready to conduct elections in accordance with the Secretary of State's Health Protocols.

B. Governor Recommendations

Governor Abbott has repeatedly claimed "the express authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster" in connection with his modification of deadlines and requirements under the Texas Election Code. 82

On August 24, 48 civil rights organizations, including TCRP, wrote to Abbott explaining several actions he could take, consistent with this claimed authority, to modify vote by mail-related deadlines and requirements under the Election Code and to mitigate the risk identified by the Postal Service. I reiterate those recommendations here by quoting directly from that letter:

- i. Require county election officials to accept mail-in ballots up to seven days after Election Day, as long as they have either been postmarked by 7 p.m. on Election Day or are delivered via a type of mail not subject to postmarking. This would give voters the entire amount of extra time that the Postal Service has indicated voters need to ensure delivery of their ballots, and would be consistent with timelines already established for overseas mail-in ballots and curing of provisional ballots that already require Early Voting Ballot Boards to meet and approve ballots.
- ii. Eliminate the requirement that, for applications for mail-in ballots submitted electronically (such as by fax or email), that the hard copy must also be mailed and received by the early voting clerk no later than the fourth business day thereafter, and mandate that electronic submission of an application for a ballot by mail is sufficient. Electronic submission of an application for a mail-in ballot provides election officials with all the information they need to process the application, without holding voters' applications hostage to this additional, unnecessary step of submitting them in the mail.
- iii. Allow voters to deliver a marked mail ballot in person to secured, county-controlled boxes located at early voting sites or early voting clerk offices, consistent with how ballots are deposited in the mail under all other circumstances. Voters need as many

⁸² See, e.g., supra at note 52 (linking to three proclamations Governor Abbott has issued altering or suspending requirements and deadlines under the Texas Election Code).

options as possible to return their ballots that do not rely solely on the mail, given the Postal Service's recent warning. Although your recent order providing that voters can return their ballots to the early voting clerk's office is a good first step, the current situation requires an expansion of delivery locations to guarantee that personal delivery is a viable option for all who want it, and enabling delivery to any early voting location would merely be a modest extension of your July 2020 proclamation. Moreover, voters do not currently need to present photo ID to drop their ballot in their personal, unsecured mailbox or in a USPS mailbox. There is no rationale for not similarly allowing voters to deposit their ballots in secured, county-controlled boxes. These boxes can be routinely monitored and controlled if they are located at early voting sites and/or early voting clerk offices. Given the increased number of Texans who will likely take advantage of this, the requirement to go inside and present an ID when submitting a ballot should be waived to cut down on lines and the burden on elections staff, and this would conform to how voters are otherwise allowed to deposit their ballots in the mail. It should also be noted that there are already procedures in place requiring voters who have not previously had their IDs verified to do so if they are voting for the first time by mail, and these procedures would remain in place.80

Governor Abbott should additionally utilize this claimed authority to eliminate the arbitrary distinction the Texas Election Code draws between "regular" mail-in ballot voters and "emergency absentee" ballot voters by suspending the Code's requirement that emergency absentee ballot voters obtain a doctor's certification "proving" they are disabled. Specifically, he should suspend the requirement under Texas Election Code section 102.002 that:

[a]n application for a late ballot . . . must include or be accompanied by a

certificate of a licensed physician or cl practitioner in substantially the follow	1	accredited Christian Science
"This is to certify that I know that condition that will prevent him or her		
election to be held on the		
likelihood of needing personal assistat the sickness or physical condition of placeholder for notarized signaturel.	originated on	

C. Attorney General Recommendation

i. The Attorney General, like all prosecutors, has considerable discretion in the exercise of his powers. The Attorney General must issue a public announcement making clear that his office does not intend to prosecute voters for making clerical errors or mistakes, nor prosecute civic engagement organizations seeking to educate and mobilize voters, nor assist local jurisdictions in prosecuting such actions. Paxton should apologize for threatening to use the power of the state to intimidate eligible voters, particularly in a way that seems geared at gaining political

⁸³ Letter to Governor Abbott, (August 24, 2020), available at https://txcivilrights.org/wp-content/uploads/2020/08/Letter-to-Governor-re-Post-Office-Issues.pdf.

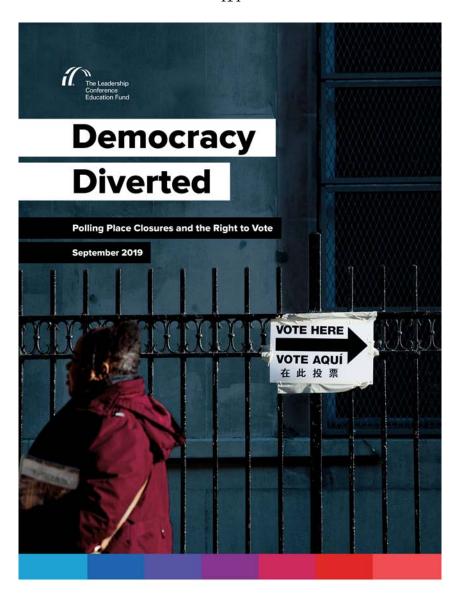
⁸⁴ Tex. Elec. Code § 102.002.

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advantage for himself and his political party, and affirm his commitment to promoting the safety and success of all of the people of Texas.

In conclusion, State officials are failing to fulfill their obligation to keep Texas voters safe while advancing our right to vote. Their actions (and inactions) are undermining the fair and free functioning of our Texas democracy, with particularly dire potential consequences for communities of color. There is still time for State officials to step up during this critical moment in our history—but time is running short. They must act now.

ADDITIONAL MATERIAL



Acknowledgments

Democracy Diverted: Polling Place Closures and the Right to Vote is a product of The Leadership Conference Education Fund.

The Education Fund was founded in 1969 as the education and research arm of The Leadership Conference on Civil and Human Rights, the nation's oldest and largest civil and human rights coalition of more than 200 national organizations. Because of our unique role in leading coalitions, we are able to create public education campaigns that leverage a range of diverse voices to empower and mobilize advocates at the local, state, and federal levels. For five decades, we have served as a force multiplier and amplified the call for a just, inclusive, and fair democracy. At The Education Fund, we believe an informed public is not only necessary to achieve civil and human rights, but also to make sure those rights endure. By activating the power of the coalition, The Education Fund and our partners can share innovative research and information around the country — and ultimately, shift the narrative on civil and human rights.

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The Voting Rights Act of 1965 (VRA), a landmark achievement of the civil rights movement, is known as one of the most effective civil rights laws in American history. Years of struggle for the right to vote culminated in Bloody Sunday, the infamous day in 1965 when civil rights advocates, including U.S. Rep. John Lewis, were brutally beaten as they marched across the Edmund Pettus Bridge in Selma, Alabama, to demand equal access to the ballot ${\sf box}-{\sf a}$ pivotal moment in the campaign for civil rights that led to the enactment of the VRA months later. Before the VRA, Black voters were prevented from participating in the political system due to literacy tests, poll taxes, voter intimidation tactics, and violence. In the mid-1950s, only 25 percent of African Americans were registered to vote, and the registration rate was even lower in some states. In Mississippi, for example, fewer than $\boldsymbol{5}$ percent of African Americans were registered to vote. Those rates rose quickly after the VRA was enacted. By 1970, almost as many African Americans were registered to vote in Alabama, Mississippi, Georgia, Louisiana, North Carolina, and South Carolina as had been in the entire century before 1965.2 Like African Americans, Native Americans, Latinos, and Asian Americans have also faced voter discrimination and low voter registration rates. It wasn't until 1975, when Congress amended the VRA, that certain jurisdictions were required to provide bilingual election materials and voting assistance.3

See U.S. COMM'N ON CIVIL RIGHTS, AN ASSESSMENT OF MINORITY VOTING RIGHTS ACCESS IN THE UNITED STATES 171 (2018).

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See Servey Cyr. 4 violet, 570 U.S. 520 SSJ (2010) (Givillage), L. disserving).
See U.S. COMMIN ON CYRI, BRONTS, AN ASSESSIVENT OF MINORITY VOTING RIGHTS ACCESS IN THE UNITED STATES 34 (2018).

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The Heart of the Voting Rights Act

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Often described as the "heart" of the VRA, Section 5⁴ played a critical role in dismantling the systemic discrimination against voters of color that was prevelant throughout the South. This section, also known as the preclearance provision, allowed the U.S. Department of Justice (DOJ) and the U.S. District Court for the District of Columbia to block states and localities (i.e., "covered jurisdictions"⁵) with a history of discrimination from implementing voting changes that could disenfranchise voters of color. In enacting Section 5, "Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress ... decide[d] to shift the advantage of time and inertia from the perpetrators of the evil to its victims." Section 5 guaranteed that voting changes were public, transparent, analyzed, and evaluated before they were implemented, ensuring they would not discriminate against voters on the basis of race or language. While the VRA applies to the entire country, Section 5 was reserved for jurisdictions with the most pervasive patterns of discrimination: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. A selection of counties in California, Florida, Michigan, New York, North Carolina, and South Dakota were also covered and were required to submit their voting changes for approval.⁷ In addition to its preventive powers, preclearance deterred state and local jurisdictions from suppressing the voting power of growing communities of color.

Uniter Section 5 of the VRA, printeditions with a demonstrated record of noted descrimination in voting were required to submit all proposed voting changes to the U.S. Diseastment of Jackies or the V.S. Diseastment of Jackies of Jacki

States and localities required to submit their voting changes for federal approval were: Alabama, Alaska, Arizona, Georgia, Louislana, Mississippi, South Carolina, Tevas, and Virginia, and counties in California, Florida, Michigan, New York, North Carolina, and South Dakota. Counties and townships in a few other

states were removed from coverage through the "ballout" provision in Section 4(a) of the VRI

See Jurisdictions Previously Covered by Section 5, U.S. DEPT OF JUSTICE CIVIL RIGHTS DIV. https://www.justice.gov/crt/jurisdictions-previously-covered-section-5 dest updated Aug. 6, 2015).

Shelby County v. Holder's Devastating Impact

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Despite the VRA's success in combating voting discrimination, the U.S. Supreme Court struck down its coverage formula in Shelby County v. Holder in 2013. In so doing, justices rendered the VRA's most powerful provision — the Section 5 preclearance system inoperable, opening the door to racial discrimination across the country at every juncture of the electoral process. At the time, Justice Ruth Bader Ginsburg foresaw the devastating impact the loss of preclearance would have on voting rights in communities of color. "Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet,"8 she wrote in her dissenting opinion.

Since Shelby, a growing number of states and localities across the country have attempted to suppress voter participation among Black and Brown communities in various ways. States have shortened voting hours and days, enacted new barriers to voter registration, purged millions of eligible voters from the rolls, implemented strict voter identification laws, reshaped voting districts, and closed polling places. Many of these changes have been found to discriminate against Black and Brown voters.9 Courts have, in fact, found intentional discrimination in at least 10 voting rights decisions since Shelby. 10 In 2016, the U.S. Court of Appeals for the Fourth Circuit described North Carolina's voter ID law as "the most restrictive voting law North Carolina has seen since the era of Jim Crow" and said its provisions "target African Americans with almost surgical precision."11 And in 2017, a federal court ruled that Texas' 2013 congressional redistricting maps were enacted with "racially discriminatory intent" against Latino and Black voters. 12

Since Shelby, a growing number of states and localities across the country have attempted to suppress voter participation.

See Shelby Cly. v Holder, 570 U.S. 529, 590 (2013) (Gnoburg, J., desenting).
See generally, N.C. Soster Cord, of the NANCP v. McCroy, SER 73 a 202, 244 (Ho. C. 2016); Pervix v Abbott, 274 F. Supp. 3d 624, 652, 686 (NO. Tev., 2017).
Learn tenn Shoreling, Revisionar 6.0 C. Curris, NANCP Legal for Mart 1s Bos Goodston, Chie, U.S. House Comm. on the Justicity (Sep. 7, 2017) (not fits NC. State Cord, of the NANCP v. McCroy, SER 732 (204, 244 (Ho. Ct. 2016)).
N.C. State Cord, of the NANCP v. McCroy, SER 732 (204, 214 (Ho. Ct. 2016)).

The absence of Section 5 has made it increasingly difficult to identify harmful voting changes before they take effect because states and localities are no longer required to notify federal officials of changes to voting laws. To track discrimination against voters of color, advocates need a fine-grained understanding of changing electoral processes in states and localities across the nation, especially in those with histories of discrimination. In the absence of Section 5, they no longer have the means of achieving that knowledge. Section 5's prophylactic power came from its recognition that the "harms" of voting discrimination can never be truly redressed. Once an election is held, there is no do-over.

The wave of voter suppression since Shelby suggests that restoring the VRA and erecting additional safeguards to protect voters from racial discrimination must be a top legislative priority. When Congress wrote and passed the VRA, it understood that racial discrimination in voting morphs and changes over time; hence, the creation of Section 5. The myriad tactics now used to restrict electoral participation are just as pernicious as the poll taxes and literacy taxes of the 20th century. Congress can — and must — address this problem by restoring and strengthening the VRA.

Congress can — and must — address this problem by restoring and strengthening the VRA.

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Rise in Polling Place Closures Since Shelby

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The national media have focused on discriminatory changes in voting policy and practice, such as the increase in photo identification requirements, purges from voting rolls, and reductions in rates of early voting. Yet poll closures have received little attention, even though they are a common and particularly pernicious way to disenfranchise voters of color. Decisions to shutter or reduce voting locations are often made quietly and at the last minute, making pre-election intervention or litigation virtually impossible. Closing polling places has a cascading effect, leading to long lines at other polling places, transportation hurdles, denial of language assistance and other forms of in-person help, and mass confusion about where eligible voters may cast their ballot. For many people, and particularly for voters of color, older voters, rural voters, and voters with disabilities, these burdens make it harder — and sometimes impossible — to vote.

Before Shelby:

States and localities were required to notify voters of any planned polling place closures well ahead of time. State and local officials were also required to prove that proposed voting changes would not have a discriminatory effect on Black, Latino, Asian American, or Native American voters, and they were required to give the DOJ data from the U.S. Census Bureau about the racial impact of polling closures. The DOJ would then reach out to the community to obtain information about the impact of the proposed voting change.

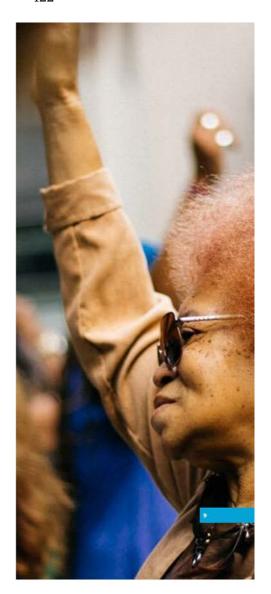
Since Shelby:

Jurisdictions are no longer required to notify voters of changes, and the DOJ does not have to analyze the impact of proposed voting changes on communities of color in Section 5 jurisdictions. To identify potentially discriminatory polling place relocations or closures and precinct changes, voters now must rely on reports from the news media, social media, and/or local advocates who attend city and county commission meetings or legislative sessions where these changes are made. In most cases, closures go unnoticed, unreported, and unchallenged.

See U.S. COMM'N ON CIVIL RIGHTS, AN ASSESSMENT OF MINORITY VOTING RIGHTS ACCESS IN THE UNITED STATES 169 (2018).

See U.S. COMM'N ON CIVIL RIGHTS, AN ASSESSMENT OF MINORITY VOTING RIGHTS ACCESS IN THE UNITED STATES 47 (2018).

While all poll closures do not prove discrimination, they merit heightened scrutiny, given this country's sordid history of excluding voters of color from the political process. Context matters. There may be legitimate reasons to reduce the number of polling places, perhaps because of a population decrease or reduced demand for Election Day voting because of increases in early or mail-in voting. When polling place reductions are planned in concert with diverse communities, evaluated in advance to ensure they won't harm voters of color, and take place with clear notice and transparency, they can be implemented equitably. Before Shelby, states and localities with clear records of voter discrimination like those discussed in this report - were required to take these steps when consolidating polling places. Today, they are not.



Polling Place Closures Today

The surge in voting changes at the state and local level after *Shelby* catalyzed the need for a systemic examination of poll closures and other seemingly innocuous changes that could have negatively impacted voters of color. In 2016, The Leadership Conference Education Fund identified 868 polling place closures in former Section 5 jurisdictions in our initial report, *The Great Poll Closure*. This report is both an update to — and a major expansion of — our original publication.

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Our first report drew on a sample of fewer than half of the approximately 860 counties or county-equivalents that were once covered by Section 5. This report covers an expanded data set of 757 counties. What's more, *The Great Poll Closure* relied on voluntary reports of aggregate numbers of polling places that state election officials gave to the U.S. Election Assistance Commission. This report relies largely on independent counts of polling places from public records requests and publicly available polling place lists.

in this report, we found 1,688 polling place closures between 2012 and 2018, almost double the 868 closures found in our 2016 report. Additionally, Democracy Diverted analyzes the reduction of polling places in the formerly covered Section 5 jurisdictions in the years between the 2014 and 2018 midterm elections. We found 1,173 fewer polling places in 2018 — despite a significant increase in voter turnout. To better understand the potentially discriminatory impact of these closures, additional analysis beyond what is included in this report must be completed at the precinct level. This analysis — precisely the kind that the DOJ conducted under preclearance — takes time and resources. Our hope is that journalists, advocates, and voters will use this county-level polling place data to scrutinize the impact of poll closures in their communities, to understand their impact on voters of color, and to create a fairer and more just electoral system for all.

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Summary of Methodology

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This report examines 757 (or nearly 90 percent) of the approximately 860 counties and county-level equivalents once covered by Section 5. Our sample includes only those jurisdictions where The Education Fund was able to acquire accurate polling place lists or counts from state or local election officials or reputable media sources for general elections in 2012, 2014, 2016, and/or 2018. Counties where we could not obtain reliable data (Virginia and three from Texas) were excluded from the analysis. More detail on methodology is available at the end of this report.



We found 1,688 polling place closures in places once covered by Section 5 of the Voting Rights Act. Of the 757 counties in our study, 298 (39 percent) reduced the number of polling places between 2012 and 2018. Because presidential elections tend to have higher turnout rates than midterms, we analyzed the data to determine whether the number of polling places varied to meet the different demands of each type of election. They did not. Most (69 percent) closures (–1,173)¹⁶ occurred after the 2014 midterm election.

The Shelby decision paved the way for systematic statewide efforts to reduce the number of polling places in Texas (–750), Arizona (–320), and Georgia (–214). Quieter efforts to reduce the number of polling places without clear notice or justification spread throughout Louisiana (–126), Mississippi (–96), Alabama (–72), North Carolina (–29), and Alaska (–6).

Our analysis also found that South Carolina (–18) is unique among southern states in that it has state laws for polling place changes. Despite barriers to voting in other contexts, South Carolina has closed relatively few polling places since *Shelby*.

Though not inherently discriminatory, these polling place closures occurred in states and localities with past histories of racial discrimination in voting. And some took place amid a larger constellation of efforts to prevent voters of color from electing the candidates of their choice, such as enactment of stricter voter identification laws, restrictions on voter registration, and voter purges.

Throughout this report, we refer to polling place reductions using the minus sign (-).



The Nation's Megaclosers

Our analysis uncovered statewide efforts to reduce polling places across Texas, Arizona, and Georgia — all states with rapidly growing and diversifying electorates. Each state stands out for the volume, scale, and breadth of its polling place closures.

The 10 counties that closed the most polling places by number are all located in Texas, Arizona, and Georgia.



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Texas

Closures	750
Latino	39%
Plack	129/



Arizona

Closures	.320
Latino	.30%
Black	4%
Native American	4%



Georgia

Closures	214
_atino	9%
Black	31%

14

Top Ten Closers by Percentage

Lumpkin County, GA	89%
Stephens County, GA	88%
Warren County, GA	83%
Bacon County, GA	80%
Butts County, GA	80%
Somervell County, TX	80%
Jackson County, TX	75%
Lanier County, TX	75%
Loving County, GA	75%
Stonewall County, GA	75%

Top Ten Closers by Total Numbers

Maricopa County, AZ	171
Dallas County, TX	74
Travis County, TX	67
Harris County, TX	52
Brazoria County, TX	37
Nueces County, TX	37
Mohave County, AZ	34
Cochise County, AZ	32
Pima County, AZ	31
McLennan County, TX	31



Texas ------+

Texas, a state where 39 percent of the population is Latino and 12 percent is African American, 17 has closed 750 polling places since Shelby, by far the most of any state in our study. Five of the six largest closers of polling places are in Texas. With 74 closures, Dallas County, which is 41 percent Latino and 22 percent African American, is the second largest closer of polling places, followed by Travis County, which is 34 percent Latino (-67). Harris County, which is 42 percent Latino and 19 percent African American (-52), and Brazoria County, which is 13 percent African American and 30 percent Latino (-37), tied with Nueces County, which is 63 percent Latino (-37).18 Many, but not all, of these polling places were closed as part of a statewide effort to centralize voting into "countywide polling places." This effort slashed the number of voting locations but allowed voters to cast ballots at any Election Day polling place. Without Section 5 of the VRA, we cannot assess the impact these mass closures have on communities of color.



Arizona, a state where 30 percent of the population is Latino, 4 percent is Native American, 19 and 4 percent is African American, has the most widespread reduction (-320) in polling places. Almost every county (13 of 15 counties) closed polling places since preclearance was removed — some on a staggering scale. Maricopa County, which is 31 percent Latino, closed 171 voting locations since 2012 - the most of any county studied and more than the two next largest closers combined. Many Arizona counties shuttered significant numbers of polling places, including Mohave, which is 16 percent Latino (-34); Cochise, which is 35 percent Latino (-32); and Pima, which is 37 percent Latino (-31).20

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Georgia ------+

Georgia, a state where 31 percent of the population is African American and 9 percent is Latino, has 214 fewer polling places. 21 Georgia stands out because its counties have closed higher percentages of voting locations than any other state in our study. The top five closers of polling places by percentage were Georgia counties: The top three counties in the state were Lumpkin (89 percent closed); Stephens (88 percent closed); and Warren, which is 61 percent African American (83 percent closed). Bacon County, which is 15 percent African American, and Butts County, which is 28 percent African American, tied with 80 percent closed.²² Seven counties with major polling place reductions now have only one polling site to serve hundreds of square miles. In a February 2015 memo, the office of Brian Kemp, who was then serving as Georgia's secretary of state, encouraged counties to consolidate voting locations. He specifically spelled out twice — in bold font — that "as a result of the Shelby vs. Holder [sic] Supreme Court decision, [counties are] no longer required to submit polling place changes to the Department of Justice for preclearance."23

Georgia is 31 percent African American O percent Listno, 1 percent Native American, and 4 percent Asian.

See 2012-2017 American Community Survey Shells Estimates, Table 800002 U.S. CIDNUS 8UREAU (2017),

This List State

Out of Sight, Out of Mind

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Polling place closures in Louisiana, Mississippi, Alabama, and North Carolina follow a similarly troubling trend: Most took place out of public sight and were therefore out of the public's mind. Polling place closures happened largely without clear notice; transparency about how or why they were made; or approval from impacted voters or community stakeholders. In fact, news reports about polling place closures in all four states were often met with silence from elected officials. Many either did not respond to requests for comment;²⁴ responded but did not provide meaningful information;²⁵ or responded with false information,²⁶

By far, the most common justification for closing polling places was no justification at all. Local officials who did offer an explanation often cited pretexts, such as budget constraints, compliance with the Americans with Disabilities Act (ADA), school safety concerns, limited parking, changes in voter turnout, or even simple logic. As one election commissioner from Mississippi put it, sometimes closing polling places "just makes sense."²⁷



³⁵ See Charles Maldonado, Many New Orloans Voters are Soil Driving Farther to Vote then Before Katrins, THE LESS GNV, 8, 2018, https://doi.org/10.1008/none-new-orleans-voters-are-attl-driving-farther-to-soile-then-defloreto-soile-farther-to-soile-branche-farther-to-soile-branche-farther-to-soile-then-defloreto-soile-farther-to-soile-branche-farther-to-soile-branche-farther-to-soile-then-defloreto-soile-farther-to-soile-branche-farthe

See Anna Wolfe & Alex Rozier, Free From Federal Oversight, 5 Percent of Mississippi Polling Locations He Closed Since 2013, MISS, TODAY (On: 24, 2018). https://mississipologice.com/2018/01/24/fines-from-federal-oversight-5-peccent-of-mississippi-pollingintersections/seed (Control of Control of Control



³⁹ See Anna Wolfe & Alex Rozier, Free From Federal Oversight, 5 Percent of Mississippi Polling Locations Hav Closed Since 2013, MRSS, TODAY (Oct. 24, 2018). https://wissississindex.com/2018/19/24/free from Federal oversight 5-percent of mississippi publing.



Louisiana

In Louisiana, two-thirds of all parishes closed polling places, leaving voters with 126 fewer places to vote than in 2012. The biggest closer was Jefferson Parish, which is 26 percent African American and 14 percent Latino. That parish first shuttered 23 voting locations in 2015 for lack of compliance with the ADA. Instead of making low-cost modifications or relocating those polling places in subsequent elections, the parish shuttered two more in advance of the 2018 election — a deeply troubling trend in a parish with an established record of hostility toward voting rights.²⁸ Equally concerning, voters in East Baton Rouge Parish, which is split about evenly between Black and White voters, have lost 10 polling places since 2012. Initially, many closures were said to be a temporary response to emergency flooding in 2016.²⁹ But years later, these polling places have yet to reopen. That follows a troubling trend that began in Orleans Parish, which has yet to restore many of the polling places that were closed in 2005 in the aftermath of Hurricane Katrina.

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Mississippi ······+

In Mississippi, a state where more than one-third (37 percent) of the population is African American, ³⁰ the number of polling places has dropped by 96 since 2012, with closures spread among 31 of the state's 82 counties. Harrison County, which is about one-quarter (24 percent) African American, and Pearl River County, which is 13 percent African American, were the largest closers in the state — each closing 13 polling places. The cuts would have been much worse in Pearl River had it not been for community pushback to a 2017 plan to slash the number of voting locations from 33 to 12. After months of negotiation, officials agreed to a compromise plan to move forward and keep 20 polling places open.

See U.S. COMMIN ON CIVIL RIGHTS, AN ASSESSMENT OF MINORITY VOTING RIGHTS ACCESS IN THE UNITED STATES 171 (2018), https://www.usccc.gov/pub/s/2018/Minority_Voting_Access_2018.pdf.

https://www.usccc.gov/pubs/2018/Mnonny_voting_Access_2018.pdf

See Kevin Dupuy, Temporary Voting Locations Approved for EBR Precincts, WBRZ (Oct. 10, 2016 3:16PM).

http://www.wbrz.com/news/htmporary.voting-locations-approved-for-stor-precisots.

Mississippi is 37 percent African American, 3 percent Latino, 1 percent Asian American, and 4 percent Native American.



Alabama ------+

Alabama, a state where more than a quarter (26 percent) of the population is African African,31 now has 72 fewer polling places after 23 counties reduced voting locations.³² These closures did not receive much media coverage, leaving voters with little information about why local polling places were closed. Those few news stories that were published, on the other hand, caused confusion. County officials, for example, claimed that they reduced polling places because there were too many voters³³ and cited nonexistent state laws as justification for requiring the removal of polling places from schools.34



North Carolina -----+

Voters in North Carolina, where more than one-fifth (21 percent) of the population is African American,35 also have less access to polling stations. The 40 counties once covered by Section 5 of the VRA now have 29 fewer voting locations than they had before Shelby.36 The vast majority of these reductions occurred under the proverbial cover of darkness - without any notice or reporting from the news media. They are especially concerning because majority-White counties voted to shutter voting locations with significant Black populations over the vocal objections of local civil rights groups. The Pasquotank County Board of Elections, for example, shuttered half of the polling places in Elizabeth City

— a majority-Black community — without public input and over the objections of the local NAACP branch. The consolidation was undertaken in 2015 in the name of saving money, yet no polling places were eliminated in other parts of

- Alabama is 26 percent African American, 4 percent Latino, 1.2 percent Asian American, and 4 percent Native American. See 2013-2017 American Community Survey 5-Year Estimates, Table 803002, U.S. CENSUS BUREAU (2017).
- See Mary Sell, In Some Counties, Alabama Voters Have Lost a Quarter of Their Polling Places Since 2010, BIRMINGHAM WATCH (Nov. 2, 2016),
- https://birminghamwatch.org/counties-slabame-voters-(vat-swanto-poling-places-since-2010/ See Donna Thomos, Possible Changes in District 2 Polis Bring Opposition, GADSEN MESSENGER (Sep. 6, 2013), https://gladsonressenger.com/2013/96/04/possible-changes-in-district-2-ond-shring-opposition/



Alaska ------+

In Alaska, where 14 percent of the population is Native American, ³⁷ six of the 390 polling places open in 2012 have been closed. In a state stretching over more than 660,000 square miles, every polling place matters. In many locations, one polling place serves an entire town; yet there is little to no public documentation of why any of these polling places were closed. When the only polling place serving an entire community is closed, every voter is impacted. In the absence of Section 5, the time-consuming and expensive process of litigation is often the only tool voters have to stop polling place closures.

Once under Section 5 preclearance on account of its efforts to disenfranchise Alaska Natives, the state has had recent problems with voting rights. In 2013, it settled a legal challenge from several voters and tribes for falling to meet its obligations under the VRA to provide language-accessible materials for voters with limited proficiency in English. While Section 5 was in effect, the DOJ blocked state efforts to close polling places in rural areas (which were being carried out under the guise of euphemisms like "consolidation" and "realignment"). Thanks to the work of the Alaska Federation of Natives, 176 rural villages now have absentee-in-person voting rights, which are vital in a state as large as Alaska.³⁸

P Alaska is 14 percent Native American, 3 percent African American, 7 percent Latino and 6 percent Asian.

See Villages Across the State Register to Become Absentee Early Voting Sites, ALASKA FEDN OF NATIVES, https://www.native/tederation.org/2014/07/elilages-across-the-state-register-to-become-absentee-early-voting-sites/ (last visited Aur. 8, 2019).

Vote Centers: The Jury Is Out

One reason why Texas and Arizona closed so many polling places is because they converted to the "vote center" model of voting. Under this model, voters are not assigned to specific polling places; instead, they can cast ballots at the polling place of their choosing. While generally intended to enhance access to voting locations, this model often leads to massive reductions in polling places.

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Arizona and Texas are the only two states formerly covered by Section 5 that have adopted clear programs to convert to the vote center model. In both states, many counties aggressively reduced voting locations immediately after *Shelby*. Without Section 5, racial impact analyses are no longer conducted to fully assess the impact of vote centers on Black, Latino, Native American, and Asian American voters.

Vote Centers in Arizona

In 2014, Graham County, which is 33 percent Latino and 13 percent Native American, closed half of its polling places when it converted to vote centers; ³⁹ In 2012, Graham had 18 polling sites; today, it has half that — six vote centers and three precincts. Cochise County, which is 35 percent Latino, closed nearly two-thirds (65 percent) of its polling places when it converted to vote centers, falling from 49 in 2012 to 17 in 2018. Gila County, which is 16 percent Native American and 19 percent Latino, closed almost half of its polling places; it had 17 in 2018, down from 33 in 2012.

Many counties justify the transition to vote centers by rightly pointing out that the widespread adoption of vote-by-mail has diminished the need for physical polling places. Yet the state has given voters little in the way of explaining the process of voting, providing safeguards to protect voting rights, or making recommendations about how to transition to vote centers in ways that do not discriminate against voters of color or voters with limited English proficiency. State law gives counties broad leeway to implement vote centers as they see fit; as a result, some have converted entirely to vote centers, some have maintained traditional voting precincts, and others have adopted a hybrid model. ⁴¹

Switching to vote centers doesn't necessitate fewer polling places. Navajo County, which is almost half Native American and home to three Native American reservations, converted all of its polling places to vote centers while keeping almost every one of its voting locations open.

See Jon Johnson, County Chooses Vote Centers Over Poling Precincts, E. ARIZ, COURIER (Jun. 9, 2014), https://www.excounter.com/prepage/county/precincts/security/security/precincts/security/securit

https://www.eacounies.com/heres/com/ty-chooses-vote-centres-eyes-centres-type-conting-prescribationies_32a7esas-e888-3182-esas-social-45 see 2013-2017 American Community Survey 5-Year Estimates, Table 800002, U.S. CENSUS BUREAU (2017), https://doi.org/10.1016/j.centres-analysis-analysis-prescriptionies-centres-analysis-ana

⁴¹ See H.R. 2303, 50th Leg., 1st Reg. Sess. (Ariz. 2011).



Vote Centers in Texas

Unlike Arizona, Texas has a clear and established process for converting to vote centers. To apply to the Countywide Polling Place Program (CWPP), counties must document specific plans to meet program requirements. Though intended to make voting more efficient and convenient, this law allows counties to make deep and immediate cuts to polling places and has no required safeguards to protect voters of color from discrimination.

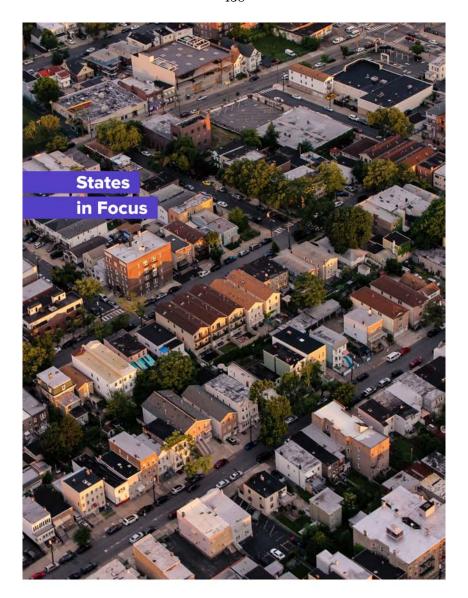
The state's process for converting to vote centers allows counties to close 35 percent of their polling places in their first election after conversion, and 50 percent in subsequent elections. The 60 counties that voluntarily participate in the program⁴² account for 24 percent of the Texas counties in our study but are responsible for about two-thirds of the state's polling place closures. While not all counties that participate in the program reduce the number of polling places, those that do are more than twice as likely to close polling places than counties that use the precinct model.

The CWPP encourages counties to ask voters of color about their thoughts on the changes but does not require it. Nor does it require a racial impact analysis, which was required before Shelby. To enroll in the CWPP, counties must provide a transcript or recording of a public forum soliciting input from voters that includes "minority organizations" among other stakeholders. The state election office also "strongly encourages" counties to create advisory committees to provide feedback on voting locations so they don't run afoul of the VRA. Each county is required to explain how it chose its voting locations, but discriminatory impact is not mentioned as a possible metric.43

 $Though \ far \ from \ perfect, \ this \ limited \ and \ transparent \ process \ is \ better \ than \ no \ process \ at \ all.$ Massive reductions are still happening in the remaining 194 counties that haven't converted to vote centers, and those consolidations are occurring with little oversight or transparency.

⁴³ See Counties Approved to Use the Countywide Politing Place Program (CWPP) for the May 4, 2019 Uniform Election, TEX, SECY OF STATE, bittles Review dos Asias to Auditor Electrication relief acceptant, after that Vision for the May 6, 2016).

18 See TEX, SECY OF STATE, DR. OF ELECTIONS, ELECTION ADVISORY IN 20.0910, 1970 OPPORTUNITIES TO USE COUNTYWIDE POLLING PLACES SUBJ. 2.0199. https://www.ea.but.html.ci.edu.org/subj.com/subj.c





State in Focus:

Texas

750

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total closures since Shelby

590

total closures from 2014 Midterm to 2018 Midterm

43%

counties in sample that reduced polling places (109 of 251) Almost half of all shuttered polling places in our sample took place in Texas, where voters have lost at least 750 polling places since *Shelby*. Most of these closures (–590) took place after the 2014 midterm election. After top-ranked Maricopa County in Arizona, the next six largest polling place closers by number were Texas countles: Dallas (–74), which is 41 percent Latino and 22 percent African American; Travis (–67), which is 34 percent Latino; Harris (–52), which is 42 percent Latino and 19 percent African American; Brazoria (–37), which is 30 percent Latino and 13 percent African American; and Nueces (–37), which is 63 percent Latino. 44 Furthermore, 14 Texas counties closed at least 50 percent of their polling places after *Shelby*.

These drastic reductions occurred against a backdrop of multiple court battles over state laws that discriminate against Black and Latino voters. These laws relate to electoral processes ranging from voter identification requirements, racial gerrymandering to prevent voters of color from electing their preferred candidates, purging voters from registration lists, and access to language assistance when voting. Hours after the Shelby decision, the Texas attorney general announced the state would implement a voter ID law that had been blocked from taking effect from 2011–2013 under Section 5's preclearance system. In 2017, a federal judge ruled that the law was enacted to intentionally discriminate against Black and Latino voters.



In Texas, conversions to vote centers contributed to the majority of polling place closures. By design, conversions reduce the number of polling places and therefore the cost of holding elections, encourage counties to use only the most physically accessible sites for voting, and improve flexibility for voters.⁴⁵ As the Texas secretary of state outlined in early 2019, the conversion program allows counties to reduce polling places by 35 percent in the first year and 50 percent in a subsequent year.⁴⁶ While the state encourages counties to engage with voters of color in a public forum or on a committee when determining the placement and number of polling places, it does not require such involvement. Nor does it require a study of the impact of proposed changes on voters of color or provide a means to ensure they are not racially discriminatory. In the absence of Section 5, the onus is on voters and community organizations to hold counties accountable for racial discrimination when closing polling places.

But counties converting to vote centers aren't alone. Counties like Somervell (-80 percent), Loving (-75 percent), Stonewall (-75 percent), and Fisher (-60 percent) - all of which have large Latino populations — cut voting locations even though they did not transition to vote centers. In fact, voters in counties that still hold precinct-style elections have 250 fewer voting locations than they did in 2012.

Beth Stevens, director of the Voting Rights Program at the Texas Civil Rights Project, called closures "a real barrier" to voting. "Voters," she said, "often don't hear that a beloved polling location near their home has closed until Election Day, forcing them to make disruptive changes on the spur of the moment to work schedules, childcare plans, and transportation arrangements. Even when they do hear about it ahead of time, voters may have to choose between going to a new polling place significantly further away and working enough hours $% \left(1\right) =\left(1\right) +\left(1\right) +\left$ that day to put food on the table — an impossible choice that no one should ever have to face. And it's a choice that usually falls on the most vulnerable voters, thereby reinforcing existing power structures and sending a message to these voters that they are less important than others in the eyes of their government."

See TEX. SECY OF STATE, DIR. OF ELECTIONS, ELECTION ADVISORY NO. 2019-01, 2019 OPPORTUNITIES TO USE COUNTYWIDE POLING PLACES (an 12, 2019). <u>Impartment and state to understood there independently 2019-01 attent.</u>

See TEX. SECY OF STATE, DIR. OF ELECTIONS, ELECTION ADVISORY NO. 2019-010, 2019 OPPORTUNITIES TO USE COUNTYWIDE POLING PLACES (Jan. 2, 2019). <u>Intelligence states to use the total section behavior and states.</u>



Counties in Focus: Nueces County

Nueces County, which is 63 percent Latino, has a clear record of problems with VRA compliance. Since Shelby, it has closed 37 polling places in its shift to vote centers — going from 121 voting locations in 2012 to 84 in 2018. This reduction occurred while the county also failed to provide voting information in Spanish during the 2016 election, a violation of its still-binding commitment under the VRA.⁴⁷ When preclearance was still intact in 2011, Nueces attempted to dilute the Latino vote in a redistricting plan for multiple county offices - despite the fact that Latino population growth greatly outpaced that of Whites. 48 That history resurfaced in 2018 during a county race between a White candidate and a Latina candidate. The White candidate said he needed to win to have authority over the redistricting process; "if we're not," he said, "we lose control of everything."49

Counties in Focus: Jefferson County

Located in southeast Texas, Jefferson County is home to the city of Beaumont. About one-third (34 percent) of its 250,000 residents are African American and one-fifth (20 percent) are Latino. County officials reduced the number of polling places from 57 in 2012 to 39 in 2018 when they converted to the vote center model. They also tried to nullify the votes of 86 mail-in ballot voters, most of whom are over age 65 and people with disabilities, in the 2018 election. 50 "Voter suppression really happens," the Rev. Rufus Parker Jr. told the Beaumont Enterprise after his ballot was rejected. "The system is messed up."

See Phoebe Suy, Jefferson County's Rejected Voters Were Elderly, Infirm, or Out-of-town, BEALMONT ENTERPRISE (Nov. 9, 2018 9 284M), https://www.beaumontenterprise.com/news/articles/jefferson.



See MALDEF Finds Dozens of Texas Counties Are Violating Federal Law by Failing to Provide Bitingual Vibling Information, MALDEF (Oct. 6, 2016 https://www.maidef.org/2016/10/maidef.finds-dozens-of-texas-counties-

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See Letter from Tromose E-Preez, Assistant Ayr, Com. U. S. Deyl 2 Autor C. Cue Rights Dur, to Joseph M. Nison, Daton L. Oldram, and James E. Tennor of Berms Maynes & Parason (Feb. 7, 2012).

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State in Focus: Arizona

320

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total closures since Shelby

total closures from 2014 Midterm to 2018 Midterm

counties in sample that reduced polling places (13 of 15)

Arizona, where 31 percent of the population is Latino, 4 percent is Native American, and 4 percent is African American, was required to submit voting changes for preclearance under the 1975 reauthorization of the VRA, which expanded Section 5 to include voters who speak a language other than English as their primary language, including Latinos, Asian Americans, and Native Americans.51 Since the loss of Section 5 preclearance, Arizona counties have embarked on a massive effort to close polling places statewide, and they have succeeded: The state now has 320 fewer polling places in Arizona than it did in 2012. These closures occurred despite national news coverage of the adverse impact of polling place reductions in Maricopa County in the 2016 presidential preference election,52 which forced voters to stand in line for five hours to cast a ballot.⁵³ Most of these closures (-235) have taken place since 2014.

https://www.azcleanelections.gov/how-to-vote/Presidental-Preference-ensured.

See Editorial, Our View: A Five-Hour Walt to Vote in Arizona Primary? That's Shameful, AZ CENTRAL (Mar. 23, 2016, 8:47AM),



With a reduction of 171 polling places, Maricopa County, which is 31 percent Latino, is by far the largest closer of polling places in our study. It closed more polling places than the second and third highest-ranked counties combined. In advance of the 2016 presidential preference election, Maricopa drastically reduced polling places, resulting in long lines that drew national attention and lawsuits from civil rights groups. 54 A settlement with civil rights groups led the county to reopen polling places for the 2016 general election — albeit with fewer than it had in the pre-Shelby 2012 presidential election. 55 Two years later, instead of responding to the clear demand for more polling places, the county cut well over 100 more voting locations. Between Arizonans' increased use of mail-in ballots and Maricopa County's experimentation with vote centers, it is difficult to determine the full impact of polling place closures on various communities without additional analysis. Yet it is incumbent upon the county to ensure that closures do not have a racially discriminatory impact.

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The drive to reduce polling places was not confined to Maricopa. In fact, four of the top 10 closers in our sample were counties in Arizona; Maricopa (-171), which is 31 percent Latino; Mohave (-34), which is 16 percent Latino: Cochise (-32), which is 35 percent Latino: and Pima (-31), which is 37 percent Latino. In the 2016 edition of The Great Poll Closure, Pima was the biggest closer in the nation (though it has since reopened 31 polling places). The scale of closures throughout the state is equally concerning in Cochise (-65 percent), Graham (-50 percent), Mohave (-49 percent), and Gila (-48 percent) counties, all of which closed about half or more of their polling places.56

Some counties in Arizona, however, are clearly trying to ensure that voters of color can access the ballot box. Navajo County, which, as noted above, is 46 percent Native American, maintained a steady number of polling places despite its conversion to vote centers. In Coconino County, which is 26 percent Native American and 14 percent Latino, many polling places on a Navajo reservation were not ADA-compliant. Yet the county has opted to keep these polling places open and make low-cost modifications to ensure voter accessibility rather than close them outright.⁵⁷

See THE LEADERSHIP CONFERENCE EDUCATION FUND, THE GREAT POLL CLOSURE 7 (Nov. 2016).

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State in Focus: Georgia

214

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total closures since Shelby

113

total closures from 2014 Midterm to 2018 Midterm

33%

counties in sample that reduced polling places (53 of 159) Counties drastically reduced polling places across Georgia after Shelby. According to the Atlanta Journal-Constitution, voters across the state now have 214 fewer places to cast ballots; in some rural counties, voters are left with only one polling place. More than half (–113) of these sites have closed since the 2014 midterm election. One of the most troubling facets of Georgia's great poll reduction is its scale: Eighteen counties closed more than half of their polling places, and several closed almost 90 percent.

These sharp declines all occurred when Brian Kemp was overseeing elections while serving as Georgia's secretary of state (between the years of 2010 and 2018). During his tenure, he erected barriers that made it harder for people of color to vote. From 2010 to 2018, he purged more than 1.4 million voters from the state's voter registration rolls, many simply because they did not vote in previous elections. Se

Alan Judd, Georgia's Strict Laws Lead to Large Purge of Voters, AJC (Oct. 27, 2018), https://www.aic.com/trees/state_regional-govt-politics/voter-purge-begs-question-what-the-matter-with-georgia/YAFvyk3Bu358



Georgia

In the wake of the Shelby decision, Kemp's office began to encourage polling place reductions leading up to the 2016 presidential election. In a February 2015 memo to local election officials, Kemp asks, "When should you begin the plan of consolidation or making changes to precincts or polling places?" The answer? "Now. Plan to spend 2015 making all the changes so that you, your county and your voters are ready for the 2016 elections." ⁵⁹⁹

The six-page document offers guidance on how to change and consolidate polling places. It does not recommend — or even acknowledge the obligation to consider — the impact of polling place changes on low-income communities and communities of color. The only reference to voting rights is the following sentence, which appears twice in the document: "As a result of the Shelby vs. Holder (sic) Supreme Court decision, you are no longer required to submit [precinct or polling place] changes to the Department of Justice for preclearance."60

Georgia's 2018 gubernatorial election received national attention because Stacey Abrams, a civil rights advocate and former minority leader of the Georgia House of Representatives, became the first African American woman to be nominated by a major party to run for the state's top office. She ran against Kemp, who was overseeing the election at the time and actively working to disenfranchise people of color. Before Election Day, 53,000 voter registration applications were put on hold, 75 percent of which belonged to voters of color.









The systematic effort to reduce polling places continued in advance of the 2018 election. Mike Malone, an elections consultant recommended by Kemp, led an effort to close polling places in 10 counties with large Black populations. 62 Malone told local boards of elections that Kemp had recommended polling place consolidation and sought to close seven of nine polling places in Randolph County, which is 60 percent African American. The plan was ultimately abandoned after an outcry from local and national advocates drew national attention. 63 In addition to five-hour lines, voters in communities of color faced countless obstacles on Election Day, including delayed polling place openings and broken voting machines. 64 In the end, Kemp narrowly won. But advocates have since filed a lawsuit alleging that the election deprived Georgians, especially Georgians of color, of their right to vote. 65

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"Look at the areas where they're closing precincts and consolidating," Helen Butler, executive director of the Georgia Coalition for the People's Agenda, told the ${\it Atlanta}$ Journal-Constitution. "It's usually in areas with poor people and minority communities that have less resources to get to other locations. "60"

Counties in Focus: Hundreds of Square Miles and Only One Polling Place

Voters in seven counties in Georgia now have only one polling place. Rural Lumpkin County closed nearly all (89 percent) of its precincts in 2016, leaving voters in the 284-square mile county with only one place to vote. County officials could have kept more polling places open by moving polling places to locations that are accessible to people with disabilities or making low-cost modifications to comply with the ADA, but they chose not to. Lanier County, which is 24 percent African American, closed 75 percent of its polling places, leaving voters in this 200-square mile county with only one place to exercise their franchise. After the lone public hearing on the closure, the Lanier County sheriff noted that the county's population had "almost doubled" during his tenure. "Personally, I don't think [the polling place closure plan] points the county in the right direction," he told the *Valdosta Daily Times*."67

- See Man Vasilogendros, Poling Places Remain a Tarpet Ahead of November Elections, PEW CHARITABLE TRUSTS (Sep. 4, 2018), Intiliar James cerebists accommissional and assists administrational PEM (1995) and a service as a treat of the add advance for PELIASE, INVIVIDED Knop bactoris Mane Massine Peters Boss from processor Commonded Consolidation of Petersland and processor of the Commonded Petersland (1995) and a service of Petersla

- Mark Nesse, Mays T. Prathu & Jacquelyn Elias, Voling Locations Closed Across Georgia Since Election Oversight Lifted, AJC (Aug. 31, 2018).
- bBnHuptlimbGpfbRu/ZdmN/.
 Terry Richards, Lanier May Close 3 of 4 Voting Precincts, VALDOSTA DAILY TIMES (Jun. 28, 2016).



State in Focus: Louisiana

126

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total closures since Shelby

76

total closures from 2014 Midterm to 2018 Midterm

66%

counties in sample that reduced polling places (42 of 64) In Louisiana, voters have 126 fewer places to vote than they did in 2012. Since VRA safeguards were removed, two-thirds of the state's parishes have closed polling places. seventy-six closed after the 2014 midterm election. Winn Parish, which is 31 percent African American, closed 24 percent of its polling places, the highest percentage in the state. Lafayette followed with 17 percent, Jefferson with 15 percent, and Bienville and Morehouse with 14 percent each.

East Baton Rouge Parish, which is 46 percent African American, has closed 10 polling places since *Shelby*. In October 2016, the parish voted to consolidate 19 polling places due to "historic flooding." This "temporary" consolidation was intended to apply only to the 2016 election, according to local news sources.⁶⁸ But our analysis revealed that at least eight closed locations did not reopen by 2018.

See Kevin Dupuy, Temporary Voting Locations Approved for EBR Precincts, WBRZ (Oct. 10, 2016 3.15PM).



This trend — temporarily closing polling places on an emergency basis but never reopening them — continues. In the aftermath of Hurricane Katrina, Orleans Parish, reeling from a major loss of population and nonfunctioning polling places, cut the number of voting locations in half — from 252 to 120.69 Fifteen years later, the polling place map supposedly designed for emergency conditions appears to be permanent, especially in the Lower 9th Ward, home to a large Black population. In the 2018 election, voters in Orleans Parish had only 124 places to vote. When asked about the closures, Stacy Head, former president of the New Orleans City Council, didn't comment other than to say she "couldn't recall any complaints about voting locations."

This compounds the long travel times to the polls many Black voters experience, an established problem in Louisiana. The Louisiana Advisory Committee to the U.S. Commission on Civil Rights cited Jhacova Williams, an economics professor who testified that the number of polling locations in a subdivision negatively correlates with the number of Black people in the subdivision. "This means that there are fewer polling locations per voter in a geographical area if that area has more Black residents," she said. "This in turn implies that Black residents face longer travel distances to reach a polling location."

See Charles Maldonado, Many New Crisans Voters Are Still Driving Farther to Vote than Before Katrina, THE LENS (Nov. 8, 2016).

Charles Maldonado, Many New Orleans Voters Are Still Driving Farther to Vote than Before Katrina, THE LENS (Nov. 8, 2016).

https://thelonangla.com/2016/11/96/many-new-orleans-voters-are-atil-driving-farther-to-yote-than-before-austina/.

LA, ADVISORY COMM. FOR THE U.S. COMMIN ON CIVIL RIGHTS, BARRIERS TO VOTING IN LOUISIANA 12 (Jun. 2016).



State in Focus: Mississippi

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96

total closures since Shelby

49

total closures from 2014 Midterm to 2018 Midterm

counties in sample that reduced polling places (31 of 82)

In Mississippi, we found that counties closed 96 polling places since VRA safeguards were removed. Of these, 49 took place after the 2014 midterm election. Since Shelby, almost 40 percent of Mississippi counties have closed polling places. Pearl River and Harrison counties closed 13 polling places each since VRA safeguards were removed, the most

Pearl River County closed 39 percent of its polling places, the largest percentage in the state. This massive reduction could have been much worse. In 2017, Pearl River's board of supervisors proposed eliminating 25 of the county's 37 polling places, for a potential 64 percent reduction. But pushback led to keeping open 20 voting locations.72 The board of supervisors claimed the reduction was necessary to ensure that all polling places were compliant with the ADA, even though one election commissioner — Margaret Woodson - admitted she lacked expertise in the law. "We're not knowledgeable in the rules for ADA compliancy," Woodson said at a board meeting considering the elimination of polling places. "We're election commissioners. We're not qualified to tell you for sure if these locations are or are not compliant."73

See Rashell Reese, New Yoring Precincts Finalized for Pearl River Courty, WRJW (Oct. 19, 2017), https://www.wryhoraldo.com/smalle-pos/2021/2059/River-vectors_previous-finalized-for-Pearl®-35.
 Rashell Reese, New Yoring Precincts Finalized for Pearl River Courty, WRJW (Oct. 19, 2017), https://www.wrshrandio.com/small.psis.pos/2021/2016/River-vectors-precincts-finalized-box-Pearl®-

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The process in Pearl River County appears to have been much more deliberate than in Harrison County, which also closed 13 polling places, a 20 percent reduction. In October 2018, Mississippi Today chronicled polling place reductions across the state and highlighted the steep drop in the county, the second most populous in the state. The report shined a light on a precinct in an elementary school where 2016 voters "stood in lines weaving through the classroom hallways and out the door." But instead of creating more voting locations, election commissioners scaled the number back. As one commissioner told the newspaper, "I don't know if it's going to create longer wait times, but they'll be inside for that wait." As

The article cited the commissioner's list of factors to consider when deciding whether to reduce polling locations, including "the quality of the facility, how much further voters will have to travel, handicap accessibility, lighting, and room for lines." The impacts on low-income voters and voters of color were not listed as factors for consideration. One county commissioner told journalists, "You can't just go back to the way it was before"— a reference to the elimination of preclearance. County officials apparently anticipated long lines and intentionally planned extra space at existing polling stations to accommodate them. This plan apparently came to fruition. In November 2018, TV reporters showed "long lines across south Mississippi as voters show up at the polls." The station singled out a polling place in Harrison County where "hundreds of people waited to vote."

Mississippi Today also documented counties that acted to prevent potential voting discrimination when they made changes to polling places. Smith County, for example, moved but did not eliminate its polling places and continues to notify the DOJ of its changes, even though it is no longer required to do so. When the county moved a polling place in September 2018, two Black officials sent affidavits to the DOJ and to Mississippi's secretary of state that declared the move necessary and said it was "not made to inconvenience voters, especially minority voters."

Anna Wolfe & Alex Rogier, Free From Federal Oversight, 5 Percent of Mississippi Poling Locations Have Closed Since 2013, SUNHERALD (Oct. 6, 2018, 9/01PM), https://mwww.sunheralds.com/mww.sunheralds.co

^{2016, 300} PMI, https://www.samerato.com/www.samerato.com/www.samerato.com/samera



State in Focus: Alabama

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otal closures since Shelby

26

total closures from 2014 Midterm to 2018 Midterm

counties in sample that reduced polling places (23 of 67)

Since voting rights safeguards were removed in 2013, Alabama has eliminated 72 polling places without clear oversight or accountability. Of these, 26 have taken place since the 2014 midterm election. The polling place reductions took place against the backdrop of various voting changes, causing concern among voting rights advocates. Changes included polling place consolidation in Daphne, Alabama; the enactment of a strict voter ID law accompanied by massive closures of DMV offices in counties with large Black populations; voter purges; and the Alabama secretary of state's refusal to inform recently re-enfranchised voters that their voting rights were restored.76

State election officials have even submitted inaccurate counts of polling places to the U.S. Election Assistance Commission (EAC). Our 2016 Great Poll Closure report relied on data provided by Alabama's secretary of state in 2012 and 2014. The state disclosed that Elmore County, which is 21 percent Black, had 42 polling places in 2012 and 2014, when in fact it only had 28.77 When local journalists asked about the inaccuracy, a spokesperson for the Alabama secretary of state said The Education Fund "misread" the number 42.78 Alabama did not fill out any information related to polling places in response to EAC's 2016 survey.79

See Campbell Robertson, For Alabama's Poor, the Budget Cuts Trickle Down, Limiting Access to Driver's Licenses, N.Y. TIMES (Oct. 9, 2015), https://www.nrytimes.com/2015/10/10/cas/alabama-budget-cuts-raise-concern-over-voting-richts.html?resduterintins.

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See Connor Sheets, Nov Che Alabama Courry Was Wendyny Identified as the State's Worst on Voting Access, BRRAINGHAM NEWS (Jan. 13, 2011, 1329M), https://doi.org/10.1016/j.news.2011.0116/j.news.20116/j.news.2011.0116/j.news.2011.0116/j.news.20116/j



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Marshall County, which is 13 percent Latino, is the state's largest closer, closing 10 polling places (26 percent) since 2012. Despite this reduction, the county's lead election official called for a review of Marshall's remaining polling sites in 2019 to assess disability accessibility.⁸⁰ Such a review may appear to be intended to enhance voting rights, but it could be a canard: Lack of ADA compliance is often used as an excuse to close polling places in other jurisdictions. In news reports, election officials did not cite any complaints or concerns about accurate ADA compliance at particular polling sites.

Mobile County, which is 35 percent African American, tied with Marshall County; it too closed 10 locations, or about 10 percent of its voting sites. Most polling sites were eliminated in early 2014, immediately after Shelby⁸¹ - a reduction covered by the Lagniappe Weekly. The county has yet to provide clear justification for the swift and significant closures.82 In a 2018 interview with Birmingham Watch, a county commissioner indicated that the reduction was due to growth in voting populations a counterintuitive argument, to be sure. A more inclusive democracy demands more polling places, not fewer.⁸³ The commissioner cited ADA compliance, parking, and traffic as the major points of consideration when placing the new sites. Missing from her list: preventing racial discrimination. "How disconcerting to know our own state has silenced the voices of thousands by an act as simple as closing polls in the Black Belt," Jessica Barker, a Huntsville-based advocate who leads Lift Our Vote 2020, told The Education Fund.







Counties in Focus: Etowah County

Etowah County, Alabama, which is 15 percent African American, closed nine polling places after *Shelby*, or almost a quarter of its voting locations. Its justifications were among the most confusing we found. After a public hearing on the matter in 2013, the *Gadsden Messenger* noted that the changes were made for "financial and other reasons," including "a new state law [that] mandates polling places be moved from schools for security reasons." Local election official Bobby Junkins also wanted to take polling places off of private property because "voting at churches eventually will become an issue." ⁸⁴ Later reports said Junkins said "it has been suggested that voting locations not be on private property" and that "new federal regulations prohibit voting locations at schools."

We could not verify the existence of any federal, state, or local regulation requiring voting locations to be removed from schools or from private property, such as churches.

See Donna Thornton, Possible Changes in District 2 Poils Bring Opposition, GADSDEN MESSENGER (Sep. 6, 2013). https://gadesdenness.enger.opm/2013/6/906/possible-shanges-in-district-2-poils-pring-opposition/.

https://parsidermessenger.com/2013/9966possible-shanges-in-district-2-polis-ping-opposition

Lisa Rogers Savage, Some Voting Locations Changed, GADSDEN TIMES (May 31, 2014, 9:00PM),

https://www.padsdentimes.com/news/2014/9331pome-yoting-locations-changed.



State in Focus: **North Carolina**

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total closures since Shelby

total closures from 2014 Midterm to 2018 Midterm

25%

counties in sample that reduced polling places (23 of 67)

Since Shelby, the North Carolina legislature has doggedly attempted to reduce voting access for people of color at every juncture of the voting process. In 2018, almost half of all counties in the state cut early voting locations, 86 and a federal court called its 2016 "monster" voting law "the most restrictive voting law North Carolina has seen since the era of Jim Crow."87 The law included cuts to early voting, restrictive voter ID provisions, and eliminated out-of-precinct voting.

Against this backdrop of high-profile voting rights violations, one quarter of the counties that were once covered by Section 5 have quietly consolidated Election Day polling places - with shockingly little public scrutiny. Since Shelby, officials in the 40 preclearance counties have shuttered 29 polling places, most of which (-18) have been closed since the last midterm election in 2014.

See Blake Paterson, Biparison Furor as North Carolina Election Law Shrinks Early Wolny Locations by Almost 20 Percent. PROPUBLICA (Sep. 24, 2018, 500-0M). These Liveus around files any parties with parties and parties and



North Carolina

North Carolina's largest closer by percentage (31 percent) is majority-White Pasquotank County, which eliminated half the polling places in Elizabeth City, which is 52 percent African American. In a 2-1 vote, county officials shuttered four polling places in Elizabeth City without any public input and over the objections of the local NAACP branch.88 Officials attributed the closures to cost constraints, but they closed polling places in Elizabeth City alone — and nowhere else in the entire county.89

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The largest closer of polling places by number is Cleveland County, which eliminated five polling places in the first federal election after Shelby despite clear opposition from the local NAACP chapter as well as from one of its three election officials. 90 These closures — planned in the city of Shelby, North Carolina — were intended to eliminate three polling places in areas with a large share of Black voters - and to make the remaining two voting locations the largest in the county. This realignment came at a time when state law invalidated ballots cast at the "wrong" polling place.91 The champion for the reduction was a White election official who expressed "shock" at opposition from Black voters and claimed not to know when he proposed the reduction that Section 5 would no longer apply to the county.92



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One of the more alarming trends we discovered is a widespread practice of blaming polling place closures on another civil rights law, the Americans with Disabilities Act (ADA). The leading closers of polling places from Mississippi, Georgia, and Louisiana used ADA compliance as their major pretext. In several cases, little to no effort was made to understand ADA compliance. Instead, election officials took advantage of the public's lack of understanding about the law to grossly inflate the estimated costs of compliance for both publicly and privately owned polling places.

Closing polling places because of a lack of ADA compliance should be a last resort for election officials and should happen only when there are no suitable alternative sites, no possible same-day modifications, and no possibilities for curbside voting and other best practices to ensure accessibility. In addition, officials must be required to conduct a thorough analysis to determine the impact on voters of color. The DOJ provides clear guidance and support for helping ensure that parking lots, hallways, doorways, and walkways are accessible to all voters. Sensuring ADA compliance might be as simple and inexpensive as:

- → Creating accessible parking with temporary signage and traffic cones;
- → Building temporary ramps for curbs and staircases; and/or
- → Installing doorbells or propping heavier doors open

⁵⁰ See generally U.S. DEPT OF JUSTICE CIVIL RIGHTS DW. DISABILITY RIGHTS SECTION, SOLUTIONS FOR FIVE COMMON ADA ACCESS PROBLEMS AT POLLING PLACES, https://www.ada.govinds.yotenbrottens.solutions.ta/polling_place_solutions.go/(dat visited Aug. 6, 2019).

Perhaps the most successful effort to turn back proposed polling place closures in a formerly covered jurisdiction happened in 2018, after officials in Randolph County, Georgia, attempted to use the ADA as an excuse to close seven of its nine polling places in a county that is 60 percent African American.⁹⁴ According to a county attorney, the plan was not based on any actual analysis of ADA accessibility for the voting locations. "There is no document, report or analysis studying the handicap accessibility of polling places," the attorney wrote to a journalist in response to a public records request.95

Swift opposition to the closures came from national and local stakeholders, including the National Disability Rights Network, 96 the ACLU of Georgia, the Georgia NAACP, and The Education Fund. Former U.S. Rep. Tony Coelho — the author of the ADA — called the plan "a violation of the law I and others worked so hard to pass." Advocates successfully blocked the proposed closures in Randolph County, but not in many other Georgia counties.

Lumpkin County, Georgia, the largest closer of polling places by percentage in the state, used ADA compliance as an excuse to eliminate all but one polling place in the 284-square mile county. Toombs County, Georgia, which is 25 percent African American and 12 percent Latino, shuttered 64 percent of its polling places in 2015. Toombs officials claimed that closing nine of its 14 polling places would save up to \$200,000 needed for operations and to secure ADA compliance.98 Immediately after the Shelby decision, Habersham County, Georgia, which is 14 percent Latino and 3 percent African American, used ADA compliance as a purported reason to shutter 85 percent of its polling places reducing voting locations from 14 to just two. This seismic shift led to long lines and voting problems, for which the elections board blamed voters for having the audacity to wait until Election Day to vote. 99 The county backpedaled on the consolidation and reopened several more polling places in the 2016 election. 100

- See Associated Press, NBC NEWS (Aug. 4, 2018, 4,00PM),
- https://www.mbcneer.com/new/mbcl/Missengle.com/new/msc/msight-clean-most-polling-places.mb2MS1
 Sam Levine, Georgia Contry Cent Back Up its Excuse for Plan to Disenferations Black Veters, EMPTFGGTON POST
 (Apr. 22, 2016), Implement Authors Controlled Levine (Levine)—Less addition allered Accesses, J. 857C-1864802755155
 See The Leadering Conference (Goving/Inson), An Open Letter to the Georgia Secretary of State, MEDLIM, Nov. 5, 2018), https://doi.org/10.1016/j.1016.1016.00167
- Americans with Disabilities Act Author: Kemp Has Failed to Comply with ADA, GA. DEMOCRATS (Aug. 23, 2018).

- https://www.noccaretimesca.com/2015/95/bit-market

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Pearl River County, one of the largest closers of polling places in Mississippi, used ADA compliance as its purported rationale to shutter 13 locations. In 2017, the county's board of supervisors proposed slashing its number of polling places from 33 to 12 — but pushback from the community led to a compromise reduction to 20. Supervisors and election commissioners said the reason was ADA compliance, but radio journalists reported that they hadn't even attempted to understand how to determine ADA compliance.¹⁰¹ The officials also seemed to conflate ADA compliance with budget concerns, with one official saying, "I'm going [to] catch some hell about it but I'm not paying \$60 a vote." The ADA rationale is especially puzzling in light of a 2010 agreement between the DOJ and the county that specified exactly which polling places in the county were and were not ADA compliant. The agreement detailed specific corrective actions for the county to bring them up to code. 103



See Rashell Resse, New Voting Precincts Finalized for Pearl River County, WRJW (Oct. 19, 2017).
https://www.withrashio.com/shippa-sopis2017/10/18/New-voting-precincts-finalized-for-Pearl-River County, WRJW (Oct. 19, 2017).
https://www.withrashio.com/shippa-sopis2017/10/18/New-voting-precincts-finalized-for-Pearl-River County, WRJW (Oct. 19, 2017).
https://www.withrashio.com/shippa-sopis2017/10/18/New-voting-respirate-finalized-for-Pearl-River County, WRJW (Oct. 19, 2017).

https://www.witeradio.com/arage-posses/1/10/18/cmm-vering-presents. 189 See Pearl River Courty, Mississippi, (Dept of Justice Jul. 20, 2010) (settlement agreement), https://www.ada.gov/pearl.co.psa/fem.

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A Tale of Two Jeffersons

In Louisiana, the largest closer of polling places was Jefferson Parish, which is 26 percent African American and 14 percent Latino and which had 25 fewer voting locations in 2018 than before the 2012 election. The sharp drop came in 2015 after a local disability rights group survey found that many polling places had "significant barriers to individuals with mobility impairments." ¹⁰⁴ Instead of making modifications or finding more suitable voting locations, the parish closed 23 polling places. ¹⁰⁵ In the three years since, the county has closed two more polling places. This development is not out of character for Jefferson Parish, which has a grave record of hostility toward Black residents' voting rights. 106

These actions stand in stark contrast to Jefferson County, Alabama, which has made efforts to ensure that polling place reductions are adopted as a last resort. Jefferson is the largest county in the state and home to Birmingham, as well as a population that is 42 percent African American and 4 percent Latino. The county, which eliminated five precincts, actively adds precincts when lines get long, as noted on its website, which documents all precinct changes. 107 And instead of closing the 32 polling places that were found out of compliance with the ADA in 2016, county officials worked to address as many problems as possible so they could keep the facilities open. 108

Instead of making modifications or finding more suitable voting locations, the parish closed 23 polling places.

See Paul Purpura, Kenner Woman Sues Jeffenon Parish to Get Better Access for Disables Voters, TIMES-PICAYUNE | NEW ORLEANS ADVOC, (Jun. 9, 2010; 2 164Mb), https://www.noids.com/pic/fice/2016/5/6/seerer, woman, uses Jefferson, pat films:

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Complying with the ADA does not have to mean mass polling place closures.

Complying with the ADA does not have to mean mass polling place closures, as Jefferson County shows. Counties can keep polling places open and serving all voters - as opposed to no voters at all. Coconino County in Arizona settled with the DOJ after it found that 46 of its polling places, many of which were on tribal lands, were not compliant with the ADA in 2016. 109 The county, which is 26 percent Native American and 14 percent Latino, is working with the Navajo Nation to ensure compliance in advance of the 2020 election and, as per the settlement agreement, will "provide an accessible voting program, including a program that is accessible to persons with mobility or vision disabilities and accessible polling places at accessible sites."10

Richland County, South Carolina, which is 48 percent African American, is also using ADA compliance to enhance voting opportunities. The county also entered a settlement agreement with the DOJ to improve access to polling places.¹¹¹ Instead of reducing voting locations, the county added them and improved access to curbside voting to inaccessible polling places. 112 This is a far cry from the discriminatory rhetoric used by a McLennan County, Texas, commissioner, who told the Waco Tribune that "the ADA is prohibiting people from voting." 113

There are myriad ways to ensure all voters have access to polling places and that all comply with DOJ guidance for polling place accessibility and the ADA; simply shutting down polling places without regard to voting rights has the opposite effect.

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Our analysis indicates that a climate of fear of school shootings has contributed to an unintended — and unfortunate — outcome: fewer polling places.

In states and localities across our study, we found election and education officials citing school safety as a reason to remove polling places from schools. This unnecessary and counterproductive response has a corrosive effect on the right to vote in low-income neighborhoods, in rural communities, and for people with disabilities. It also erects barriers between communities and schools. That said, many communities are dealing with school safety concerns in a better way: by turning Election Day into a school holiday.

In Alabama, officials justified a spate of polling place consolidations in advance of the 2014 election as a response to school safety concerns and unverified claims of new state and federal regulations to remove polling places from schools. A local newspaper reported that several of Etowah County's nine polling place closures were first explained as a response to "a new state law" that "mandates polling places be moved from schools for security reasons." No such law exists. A subsequent article said that some closures were in response to "new federal regulations [that] prohibit voting locations at schools." No such federal regulations exist. In Morgan County, where five polling places were consolidated to remove them from schools, the local election official said schools feared for their students' safety, even telling a local newspaper that hosting polling places in schools is problematic because "you're opening up the schoolchildren to potential threats." 116

See Donna Thornton, Possible Changes in District 2 Polls Bring Opposition, GADSDEN MESSENGER (Sep. 6, 2013).

¹⁰⁵ See Lisa Rogers Savage, Some Voting Locations Changed, GADSDEN TIMES (May 31, 2014, 9:00PM). https://www.gadsdentimes.com/news/2014/03/31/scme-voting-locations-changed.

https://www.gadsdentimes.com/news/20140531/some-voting-locations-channeld.

See Mary Sell, in Some Counties, Alabama Voters Have Loss a Quarter of Their Poling Places Since 2010, BRRINNQHAM WATCH (Nov. 2, 2018).

In Georgia, school and school board officials, out of widespread fear, removed polling places from schools and even changed state law to make it harder to place voting locations in schools. In Rockdale County, which is 51 percent African American, local election officials moved 10 polling places out of schools for security purposes, eliminating two voting locations in the process.¹¹⁷ During a local hearing about the consolidation, the elections board chair noted that no specific threats drove the change. "It is just the safety of the schools," he said. "Leaving the schools open and people going in just creates some safety issues. If we go back to Columbine, a lot of things have changed since then. So since the schools are not always closed on election days, this would be the best move for us, to bring them out of the schools and put them in other locations, such as churches. But it was mainly for safety concerns."18

The drive for closures is even prompting efforts to change state law to make it easier for schools to deny polling places. 119 In Fulton County, several school officials, including the school board president, have called to remove voting locations from schools. "With all these shootings it's scary to have people be able to walk into the schools," Fulton School Board President Linda Bryant told the Atlanta Journal-Constitution in August 2018. 120 Fears are also alive in nearby Cobb County, which already has 12 fewer voting locations than before Shelby - and more potential cuts as the county considers removing more polling places from schools.¹²¹ In Cobb (which has approximately 60 polling places in schools), and Fulton (which has more than 50), the burden on local election officials to find replacement voting locations would be significant. The effort is also especially vexing for Fulton and Cobb Counties, which already close schools on election days to separate voters from students. "We try to accommodate it," Richard Barron, Fulton County's elections director told WABE radio. "It's just going to get to a point where there are areas in the county where we have no options, and we can't keep consolidating locations."122 Such closures could be devastating for low-income and rural voters, as well as voters of color, who often live in communities with fewer accessible polling places.

The effort to remove polling places from schools was also cited by an election official in Harrison County, Mississippi, a leading closer of polling places. 123

- See Larry Stanford, Rockdale Board of Elections Approves New Precinct Voting Locations, ROCKDALE CITIZEN & NEWTON CITIZEN (Feb. 14, 2018). zen.com/news/focat/rockdate-changing-come-voting-precinct-locations/article_037e9097-nml: see 2013-2017 American Community Survey 5-Year Estimates, Table 803002, U.S. CENSUS BUREAU (2017),
- Larry Stanford, Rockdale Board of Elections Approves New Precinct Voting Locations, ROCKDALE CITIZEN & NEWTON CITIZEN (Feb. 14, 2018).
- Scie-self-eelf88621022e.html.

 118 See Vanessa McCray, Schools No Longer Best Voting Place. Says Fulton School Board, AJC (Aug. 24, 2018),
- miss.news.ac.commers.nccat.education/schools-longer-best-voting-place-savs-fulton-school-bo-Vanessa McCray, Schools No Longer Best Voting Place, Says Fulton School Board, AJC (Aug. 24, 2018).
- https://ewww.aic.com/ones/focal-education/schools-longer-best-voting-place-says-fulton-school-board/folm2

 See Ross Terrell, School Safety Concerns Starting to Change Metro Alfanta Voting Locations, WABE (Jun. 1, 2018),

But school safety and voter access aren't at odds with one another.

Indeed, it is possible to protect students while ensuring voting rights. One key way is to not hold school on election days—the practice in Fulton and Cobb Counties in Georgia, Richardson County in Texas, ²⁴ and throughout North Carolina. ²⁵ A local official in Richardson County, Texas, pointed to the dividends in civic engagement. A city council official in Dallas, meanwhile, told the Dallas News that "having Election Day off could also give students an opportunity to go to the polling place with their parents.**¹²⁶



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See also Bitty Ball, Some North Carolina Schools to Close or Change Schedule Due to Election
Day-Voting, THE PROGRESSIVE PULSE (Nov. 4, 2016).

Dans Brantam & Namethe Light, Richardson ISD Cancels Class on Election Day, Clsing Security Risks of Voters in Schools, DALLAS NEWS (Aug. 1, 2018 7:45 PM), 11883. Views delibars news. com/news/selectation/2018.08 Onlysic





South Carolina stood out for its tradition of keeping polling places open. Of 1,922 polling places that were open in 2012, we found that only 18 have closed — a closure rate of merely .009 percent. We attribute this to state laws requiring multiple local and state elected officials to approve all polling place closures, a conclusion we arrived at through research and interviews with local advocates.

State laws also ensure that changes to polling places are transparent. And they require consensus among local and state elected officials in order to close polling places, which is unique to South Carolina. The South Carolina Code of Laws' section on elections requires that any polling place change from a county election board must also be approved by the county legislative delegation, a body comprising the county's elected representatives to the state legislature. And it also requires that precincts are "designated, fixed, and established by the General Assembly" and signed by the governor. 277

Yet despite South Carolina's positive steps to ensure an inclusive democracy, a gaping policy hole remains: No racial impact analysis is required, leaving the public without a key way to determine who will or may be harmed by polling place changes. This critical data point must be a determinative factor in the deliberative process.

ur S.C. Code § 7-7-10 (2018) (effective June 14, 2000), https://www.asstatehouse.gov/code/statmast.php



Since Shelby, the national conversation about barriers to voting in the absence of Section 5 has focused on statewide issues like restrictive voter identification laws, racially discriminatory redistricting plans, and efforts to curtail policies that make voting more accessible, like early voting and same-day registration.

Identifying and describing polling place closures paints a fuller picture about how racial discrimination happens without appropriate oversight. We can fill in more details of this picture about how local decisions greatly impact the ability of communities of color to cast ballots for their candidates of choice.

Next to the ballot itself, the most identifiable element of our democracy's voting process is the polling place. It should — and it must — be accessible to all. When it is not, the barriers to participation can be high. Moving or closing a polling place — particularly without notice or input from communities — disrupts our democracy. It can mean the choice between picking up a child from school or voting. Taking needed overtime or voting. Or taking a bus across town or voting. In a truly inclusive democracy, no one is forced to make these difficult choices.

While there are justifiable reasons for closing polling places, the sheer scale of closures we've identified since Shelby, coupled with other, more nakedly racially discriminatory actions to deny voting rights to people of color, demand a response. The federal government must scrutinize these closures — especially in states and localities formerly covered by Section 5.

The best way to do that is to restore the Voting Rights Act, reactivate Section 5, and strengthen its other provisions that require elected officials to seek the input of communities of color and provide notice of any polling place change for any reason.

52

Methodology

This analysis quantifies the number of Election Day polling places that have closed in jurisdictions once covered by Section 5 of the Voting Rights Act since the Shelby County v. Holder decision rendered that provision inoperable in 2013.

This report studies 757 of the approximately 861 counties and county-level equivalents once covered by Section 5. It only includes jurisdictions where The Leadership Conference Education Fund could acquire accurate polling place lists or counts from state or local election officials or reputable media sources for general elections in 2012, 2014, 2016, and/or 2018. Counties where we could not obtain reliable data (Virginia and three from Texas) were excluded from the report.

Data for every county and state (including partially covered states like Florida, New York, California, and South Dakota) are included in the Appendix.

Data were compiled for this repor

- → Public records requests from state election officials
- → Posted lists of polling places on county websites
- → Reputable news sources documenting lists of polling places
- → The federal Election Assistance Commission's Election Administration and Voting Survey (EAVS)

For all lists of polling places from records requests and posted online, each polling place with a unique address or name was counted. Multiple polling places listed at the same address were counted as one polling place. Counts were conducted multiple times to ensure accuracy for each county.

For EAVS counts, the survey is voluntarily submitted by state election officials to the EAC and includes questions about how elections are conducted in each state. One of the data points collected in the EAVS is the total number of Election Day physical polling places in each county. The EAVS does not ask for polling place location data that includes addresses or zip codes, so it could not be determined where polling places were closed within counties — only the total number of polling places in each county.

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- → In EAVS for 2012, 2014, and 2016: The surveys ask three questions to determine the total number of Election Day polling places in Section D under the header "Election Day voting." Question D2b asks for "Physical polling places other than election offices," Question D2c asks about "Election offices," and D2d asks about "Other" and provides a space for comment. The total number of Election Day polling places was determined by totaling the answers for all three questions.
- → In EAVS for 2018: In question D4a, the survey asks officials to "report the total number of physical polling places in your jurisdiction for Election Day voting." It then asks for officials to demonstrate how that total number breaks down between "physical polling places other than election offices (e.g., libraries, schools, mobile voting location)" in question D3b and "polling places that are a part of the election office" for question D4c. For this study, we only used the self-reported total in question D4a. We did use D4b and D4c as well as a comments field to provide context to the total number.

How Analysis was Conducted

Because of the decentralized nature of election administration and vast differences in how or if states and counties manage, share, and make polling place data public, The Education Fund determined which data sources it would rely on and which elections it would compare on a county-by-county basis depending on data quality.

Where possible, we first opted for primary source hand-counts of polling place lists provided directly by state and county election offices and reputable news sources. When those sources were not available, we used EAVS data. We made good faith attempts to include reliable information for every county once covered by Section 5.

Benchmark Elections: For each county, we designated a past general election with the most reliable data to serve as a Benchmark Election. Where possible (709 counties), we used the 2012 general election as this benchmark, the last election to occur pre-Shelby. Where reliable information for 2012 could not be acquired, we relied on counts for the 2014 (41 counties) and 2016 (six counties) elections.

Post-Shelby Elections: Post-Shelby election counts are for the most recent general election in which reliable polling place data could be acquired for a given county. Where possible (in 737 counties), we used 2018, the most recent election prior to the publication of this report. Where reliable information for 2018 could not be acquired, we used counts from the 2016 election (20 counties).

In order to determine the number and percentage of polling places closures in each county, we compared the number of Election Day polling places open in a given county in its designated post-Shelby election with the number that were open in its Benchmark Election. The election years and data-sources used are marked for each individual county listed in Appendix A.

We also conducted an analysis to understand if the number of polling places fluctuates with turnout differences between midterm and presidential election years. We were concerned that counties in our study may regularly open fewer polling places during midterm election years because of expected lower turnout and therefore impact our results. Our analysis of counties in this study found that not to be the case. Counties in our study generally do not open fewer polling places in midterm election years than in presidential election years.

In every state, local advocates vetted our analysis and provided context for our findings and a sense of what is happening on the ground.

Appendix: Data Set for All Included Counties

State	County	g Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source		2014 Midterm Count	2014 Midtern Source
AK	ALEUTIANS EAST	0	9%		2012	Handcount	4	2018	Handcount	۰		Handcoun
AK	BRISTOL BAY	0	0%	3	2012	Handcount	3	2018	Handcount	o	3	Handcoun
AK	DENALI		20%		2012	Handcount	4	2018	Handcount			Handcoun
AK	FAIRBANKS NORTH		0%	37	2012	Handcount	37	2018	Handcount	0	37	Handcoun
AK	MAINES	0	0%	2	2012	Handcoont	2	2018	Handcount	0	2	Handcoun
AK	JUNEAU	0	0%	13	2012	Handcount	13	2018	Handcount	0	13	Handcoun
AK	KENAI PENINSULA	4	-4%	26	2012	Handcount	28	2018	Handcount	٥	25	Handcoun
AK	KETCHIKAN GATEWAY	0	0%	7	2012	Handcount	7	2018	Handcount	0	,	Handcount
AK	KODIAK ISLAND	0	0%	9	2012	Handcount	9	2018	Handcount		10	Handcoun
AK	LAKE & PENINSULA	0	016	8	2012	Handcount	8	2018	Handcount	0	8	Handcouni
AK.	MATANUSKA SUSITNA	2	5%	39	2012	Handcount	41	2018	Hendcount	0	41	Hendcoun
AK	MUNICIPALITY OF ANCHORAGE	2	2%	119	2012	Handcount	121	2018	Hendcount	13	108	Handcouni
AK	NORTH SLOPE	0	0%	9	2012	Handcount	9	2018	Handcourt	0	9	Handcouni
AK	NORTHWEST ARCTIC	٥	0%	11	2012	Hendcount	11	2018	Handcount	o	11	Handcoun
AK	PETERSBURG		0%		2012	Handcount	1	2018	Handcount	0		Handcoun
AK	SITKA	0	0%	1	2012	Handcount	1	2018	Handcount	٥	1	Handcoun
AK	SKAGWAY	0	0%		2012	Handcount		2018	Hendcount	0		Hendcount
AK	WRANGELL	0	0%	1	2012	Handcount	1	2018	Handcount	0	1	Handcouni
AX	YAKUTAT	0	0%		2612	Handcount		2018	Handcount	0		Handcoun
AK	UNORGANIZED	. 4	-4%	93	2012	Handcount	89	2018	Handcount	3	92	Handcount
ΔL	AUTAUGA COUNTY	0	0%	19	2012	Handcount	10	2018	Handcount		18	Handcount
AL	BALDWIN COUNTY	3	7%	46	2012	Handcount	49	2018	Handcount	3	46	Handcount
AL	BARBOUR COUNTY	-4	-6%	17	2012	Handcount	16	2018	Handcount	. 0	t6	Handcoon
AL.	SIBB COUNTY	0	0%	8	2012	Hendcount	8	2018	Handcount	0	8	Handcoun
AL	BLOUNT COUNTY	0	0%	25	2012	Handcount	24	2018	Handcount	0	24	Handcoun
AL	BULLOCK COUNTY	0	0%	15	2014	Handcount	15	2018	Handcount	٥	15	Handcoun
AL.	BUTLER COUNTY		-5%	22	2014	Handcount	21	2018	Handcount		22	Handcount
AL	CALHOUN COUNTY	-4	-8%	49	2012	Handcount	44	2018	Handcount	-1	45	Handcount
AL.	CHAMBERS COUNTY		-5%		2012	Handcount	20	2018	Handcount		21	Handcount

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election	Midterm to Midterm		Midterm
AL	CHEROKEE COUNTY	0	0%	23	2012	Handcount	23	2018	Handcount	0		
NO.	STATE STATES		41%		100000000000000000000000000000000000000	500000	16	Series and	0.00	REAL	-	NESSA2-8
AL	CHILTON COUNTY CHOCTAW COUNTY	-2	-6%	18	2012	Handcount	30	2018	Handcount	1	16 32	
AL AL	CLARKE COUNTY	2	STATE OF THE PARTY	27	2012	Handcount	29	2018	Handcount	N 85-00	NAME OF STREET	Handsount
AL	CLAY COUNTY	1	7%	14	2012	Handcount	15		Handcount	1		Handcount
AL.	CLEBURNE COUNTY	0	0%	14	2012	Handcount	14	2018	Handcount	0	14	Handcount
AL	COFFEE COUNTY	0	0%	29	2012	Handcount	29	2018	Handcount	0	29	Handcount
Al.	COLBERT COUNTY		3%	36	2012	Handcount	35	2018	Handcount	0	35	Handcount
AL	CONECUH COUNTY		4%	26	2012	Handcount	27	2018	Handcount	0	27	Handcount
AL	COOSA COUNTY	0	0%	12	2012	Hendcount	12	2018	Handcount	0	12	Handcount
AL	COVINGTON COUNTY	0	0%	25	2012	Handcount	25	2018	Handcount	0	25	Handcount
AL	CRENSHAW COUNTY		0%	18	2012	Handcount	18	2018	Handcount	0	18	Handcount
AL	CULLMAN COUNTY	0	0%	49	2012	Handcount	49	2018	Handcount	0	49	Handcount
AL	DALE COUNTY	0	0%	19	2012	Handcount	19	2018	Handcount	0	19	Handcount
AL	DALLAS COUNTY	2	7%	29	2012	Handcount	31	2018	Handcount	2	29	Handcount
AL	DEKALB COUNTY		-2%	45	2012	Handcoont	44	2018	Handcount	0	44	Handcount
AL	ELMORE COUNTY		4%	28	2012	Handcount	29	2018	Handcount	1	28	Handcount
AL	ESCAMBIA COUNTY	0	0%	29	2012	Handcount	29	2018	Handcount	- 0	29	Handcount
AL	ETOWAH COUNTY	-9	-22%	41	2012	Hendcount	32	2018	Handcount	-1	33	Handcount
AL	FAYETTE COUNTY	0	0%	27	2012	Handcount	27	2018	Handcount	0	27	Handcount
AL	FRANKLIN COUNTY	4	-4%	24	2012	Handcount	23	2018	Handcount	4	24	Handcount
AL	GENEVA COUNTY		-4%	25	2012	Handcount	24	2018	Handcount	-1	25	Handcount
AL	GREENE COUNTY	0	0%	14	2012	Handcount	14	2018	Handcount	0	14	Handcount
AL	HALE COUNTY	0	0%	14	2014	Handcount	14	2018	Handcount	0	14	Handcount
AL	HENRY COUNTY	0	0%	13	2012	Hendcount	13	2018	Handcount	0	13	Handcount
AL	HOUSTON COUNTY		4%	26	2012	Handcoom	27	2018	Handcount	0	27	Handcount
AL	JACKSON COUNTY	0	0%	37	2012	Handcount	37	2018	Handcount	0	37	Handcount
AL	JEFFERSON COUNTY	-5	-3%	177	2012	Handcount	172	2018	Handcount	4	173	Handcount
AL	LAMAR COUNTY	0	0%	22	2012	Handcount	22	2018	Handcount	1000N	600000	Handcount
AL	LAUDERDALE COUNTY	0	0%		2012				Handcount	1		Handcount
AL	LAWRENCE COUNTY	0	0%	RESERVACE.	2012	988888	29	2018	Handcount	lotores.	SCHOOL	Handcount
AL	LEE COUNTY	<u> </u>	4%		2012	Handcount	24	2018	Handcount	1	-	Handcount
AL	LIMESTONE COUNTY	0	0%	25	2012	Handcount		2018	Handcount	STATE OF	See and the second	Handcount
AL	LOWNDES COUNTY	0	0%	12	2012	Handcount	12	2018	Handcount	0	12	Handcount

State	County	# Changed	% Changed	Benchmark Election Count	Bonchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	to		2014 Midterm Source
AL	MACON COUNTY	0	0%	14	2012	Handcount		2018	Handcount	0	14	
AL	MADISON COUNTY	.4	-5%	75	2012	Handcount	71	2018	Handcount	4	72	Handcount
AL	MARENGO COUNTY	-3	-14%	22	2012	Handcount	19	2018	Handcount	-3	22	Handcount
AL	MARION COUNTY	٠,	-5%	20	2012	Handcount	19	2018	Handcount		20	Handcount
AL	MARSHALL COUNTY	-10	-26%	38	2012	Handcount	28	2018	Handcount	-2	30	Handcount
AL	MOBILE COUNTY	-10	10%	98	2612	Handcount	88	2018	Handcount	0	88	Handcount
AL	MONROE COUNTY	-1	-3%	31	2012	Hendcount	30	2018	Handcount	0	30	Handcount
AL	MONTGOMERY COUNTY	4	9%	46	2012	Handcount	50	2018	Handcount	9	41	Handcount
AL	MORGAN COUNTY	-5	-11%	44	2012	Handcount	39	2018	Handcount	-1	40	Handcount
AL	PERRY COUNTY	0	0%	12	2012	Handcount	12	2018	Handcount	0	12	Handcount
AL	PICKENS COUNTY	0	0%	19	2012	Handcount	19	2018	Handcount	0	19	Handcount
Al.	PIKE COUNTY		4%	28	2012	Handcount	29	2018	Hendcount	0	29	Handcount
AL	RANDOLPH COUNTY	-1	-4%	23	2012	Handcount	22	2018	Handcount	.4	23	Handcount
AL	RUSSELL COUNTY	0	0%	17	2012	Handcount	17	2018	Handcount	0	17	Handcount
AL	SHELBY COUNTY	-3	-6%	47	2012	Handcount	44	2018	Handcount	-3	47	Handcount
AL	ST, CLAIR COUNTY	4	-3%	31	2012	Handcount	30	2018	Handcount		31	Handcount
AL	SUMTER COUNTY	0	0%	13	2012	Handcount	13	2018	Handcount	0	13	Handcount
Al.	TALLADEGA COUNTY	0	0%	26	2012	Handcount	26	2018	Handcount	0	26	Handcount
AL	TALLAPOOSA COUNTY	1	4%	25	2012	Handcount	26	2018	Handcount	0	26	Handcount
AL	TUSCALOOSA COUNTY	o	0%	54	2012	Handcount	54	2018	Handcount	0	54	Handcount
AL	WALKER COUNTY	0	0%	45	2012	Handcount	45	2018	Handcount	0	45	Handcount
AL	WASHINGTON COUNTY	3	18%	17	2012	Handcount	20	2018	Handcount	1	19	Handcount
AL	WILCOX COUNTY	-4	-15%	26	2014	Handcount	22	2018	Handcount	-4	26	Handcount
AL.	WINSTON COUNTY	0	0%	18	2012	Handcount	18	2018	Handcount	0	18	Handcount
AZ	APACHE COUNTY	1	2%	42	2012	EAVS	43	2018	Handcount	0	43	EAVS
AZ	COCHISE COUNTY	-32	-65%	49	2012	BAVS	17	2018	Handcount	-32	49	ÉAVS
AZ	COCONINO COUNTY	-9	-14%	64	2012	EAVS	55	2018	Handcount	.9	64	EAVS
AZ	GILA COUNTY	-16	-48%	33	2012	EAVS	17	2018	Handcount	N/A	N/A	N/A
AZ	GRAHAM COUNTY	-9	-50%	18	2012	EAVS	9	2018	Handcount	0	9	EAVS
ΑZ	GREENLES COUNTY	-3	-38%	8	2012	EAVS	5	2018	Handcount	-3	8	EAVŞ

			~	Benchmark	Benchmark	Benchmark	Post-Shelby	Post-Shelby	Post-Shelby	Midterm	2014	2014
State	County	# Changed		Election Count	Election Year	Election Source	Election Count	Election Year	Election Source	to Midterm	Midterm	Midterm Source
ΑZ	LA PAZ COUNTY	.4	-11%	9	2012	EAVS	8	2018	Handcount	-1	9	EAVS
AZ	MARICOPA COUNTY	-171	-25%	671	2012	Handcount	500	2018	Handcount	-149	649	Handcount
ΑZ	MOHAVE COUNTY	-34	-49%	70	2012	EAVS	36	2019	Handcount	-30	66	EAVS
AZ	NAVAJO COUNTY	-2	4%	52	2012	EAVS	50	2018	Handcount	11	39	EAVS
AZ	PIMA COUNTY	-31	-11%	280	2012	EAVS	249	2018	Handcount	7	242	EAVS
AZ	PINAL COUNTY	2	2%	98	2012	EAVS	100	2018	Handcount	3	97	EAVS
AZ	SANTA CRUZ COUNTY	-5	-29%	17	2012	EAVS	12	2018	Handcount	-5	17	EAVS
AZ	YAVAPAI COUNTY	-5	47%	30	2012	EAVS	25	2018	Handcount	-6	30	EAVS
AZ	YUMA COUNTY	-2	-18%	11	2012	EAVS	9	2018	Handcount	-1	10	EAVS
CA	KINGS COUNTY	-13	-37%	35	2012	EAVS	22	2018	Handcount	-13	35	EAVS
CA	MONTEREY COUNTY	0	0%	83	2012	EAVS	83	2018	Handcount	-1	84	EAVS
CA	YUBA COUNTY	9	-26%	27	2012	EAVS	20	2018	EAVS	-6	26	EAVS
FL.	COLLIER COUNTY	-1	-2%	60	2012	Handcount	59	2018	Handcount	2	57	Handcount
FL	HARDEE COUNTY		8%	12	2012	Handcount	13	2016	Handcount	•	12	Handcount
FL.	HENDRY COUNTY	0	0%	10	2012	Handcount	10	2018	Handcount	0	10	Handcount
FL	HILLSBOROUGH COUNTY	-19	-7%	276	2012	EAVS	257	2018	Handcount	-22	279	EAVS
FL	MONROE COUNTY	-2	-7%	29	2012	Handcount	27	2018	Handcount	-3	30	Handcount
GA	APPLING COUNTY	7	44%	16	2012	AJC	9	2018	AJC	-5	14	AJC
GA	ATKINSON COUNTY	0	0%	4	2012	AJC	4	2018	AJC	0	4	AJC
GA	BACON COUNTY	.4	-80%	5	2012	AJC		2018	AJC	4	5	AJC
GA	BAKER COUNTY	0	0%	5	2012	AJC	5	2018	AJC	0	5	AJC
GΑ	BALDWIN COUNTY	0	0%	14	2012	AJC	14	2018	AJC	0	14	AJC
GA	BANKS COUNTY	0	0%	13	2012	AJC	13	2018	AJC	0	13	AJC
GA	BARROW COUNTY	0	0%	16	2012	AJC	16	2018	A.JC	0	16	AJC
GA	BARTOW COUNTY	-1	-6%	17	2012	AJC	16	2018	AJC	-1	17	AJC
GA	BEN HILL COUNTY	-3	-60%	5	2012	AJC	2	2018	AJC	0	2	AJC
GA	BERRIEN COUNTY	-2	-29%	7	2012	AJC	5	2018	AJC	-2	7	AJC
GA	BIBB COUNTY	-9	-23%	40	2012	AJC	31	2018	AJC	-9	40	AJC
GA	BLECKLEY COUNTY	0	0%	1	2012	AJC	1	2018	AJC	0	1	AJC
GA	BRANTLEY COUNTY	-6	-67%	9	2012	AJC	3	2018	AJC	0	9	AJC

State	County	Channed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source		Post-Shelby Election Year	Post-Shelby Election Source	to		2014 Midterm Source
GA	BROOKS COUNTY	-2	-22%	9	2012	AJC	7	2018	DLA	0		AJC
GA	BRYAN COUNTY	0	0%	10	2012	AJC	10	2018	AJC	0	10	AJC
GA	BULLOCH COUNTY	0	0%	16	2012	AJC	16	2018	DLA	0	16	AJC
GA	BURKE COUNTY	0	0%	16	2012	AJC	16	2018	AJC	0	16	AJC
GA	BUTTS COUNTY	-4	-80%	5	2012	AJC	1	2018	AJC	.4	5	AJC
GA	CALHOUN COUNTY	0	0%	5	2012	AJC	5	2018	AJC	0	5	.AJC
GA	CAMDEN COUNTY		0%	14	2012	AJC	14	2018	AJC	0	14	AJC
GΑ	CANDLER COUNTY	0	0%	2	2012	AJC	2	2018	AJC	0	2	AJC
GA	CARROLL COUNTY	-2	-7%	30	2012	AJC	28	2018	AJC	-2	30	AJC
GA	CATOOSA COUNTY	,	-8%	12	2012	AJC	- 11	2018	AJC	0	11	AJC
GA	CHARLTON COUNTY		-18%	9	2012	AJC	8	2018	AJC	-1	9	AJC
GA	CHATHAM COUNTY	1	1%	89	2012	AJC	90	2018	AJC	1	89	AJC
GΑ	CHATTAHOOCHEE COUNTY	0	0%	1	2012	AJC	1	2018	AJC	o	1	AJC
GA	CHATTOOGA COUNTY	2	18%	11	2012	AJÇ	13	2018	AJC	,	12	AJC
GA	CHEROKEE COUNTY	0	0%	42	2012	AJC	42	2018	AJC	0	42	AJC
GA	CLARKE COUNTY	0	0%	24	2012	DLA	24	2018	AJĆ	0	24	AJC
GA	CLAY COUNTY	0	0%	5	2012	AJC	5	2018	AJC	0	5	AJC
GΑ	CLAYTON COUNTY	0	0%	58	2012	OLA .	58	2018	AJC	0	58	AJC
GA	CUNCH COUNTY	0	0%	5	2012	AJC	5	2018	AJC	0	5	AJC
GA	COBB COUNTY	-12	-8%	153	2012	AJC	141	2018	AJC	-4	145	AJC
GA	COFFEE COUNTY	0	0%	6	2012	AJC	6	2018	OLA	o TANKARITA	6	AJC
GA	COLQUITT COUNTY	0	0%	19	2012	AJC	19	2018	AJC	0	19	AJC
GA	COLUMBIA COUNTY	0	0%	42	2012	AJC	42	2018	AJC	-3	45	AJC
GA	COOK COUNTY	0	0%	8	2012	AJC	8	2018	AJC	0	8	AJC
GA	COWETA COUNTY	-1	-4%	28	2012	AJC	27	2018	AJC	-1	28	AJC
GA	CRAWFORD COUNTY	0	0%	6	2012	AJC	6	2018	AJC	- 0	6	AJC
GA	CRISP COUNTY	0	0%	5	2012	AJC	5	2018	AJC	0	5	AJC
GA	DADE COUNTY	0	0%	7	2012	AJC	7	2018	AJC	0	7	AJC
GA	DAWSON COUNTY	0	0%	3	2012	ЖA	3 \$40008546	2018	AJC	0	3	AJC
GA	DECATUR COUNTY	o	0%	9	2012	AJC	9	2018	AJC	. 0	9	AJC

		,	*	Benchmark Election	Benchmark Election	Benchmark Election	Past-Shelby Election	Post-Sheiby Election	Post-Shelby Election		2014 Midterm	2014 Midterm
State	County	Changed		Count	Year	Source	Count	Year	Source		Count	Source
GA	DEKALS COUNTY	3	2%	189	2012	AJC	192	2018	AJC	3	189	AJC
GA	DODGE COUNTY	0	0%	16	2012	AJC	16	2018	AJC	0	16	AJC
GA	DOOLY COUNTY	0	0%	5	2012	AJC	5	2018	AJC	0	5	AJC
GA	DOUGHERTY COUNTY	0	0%	28	2012	AJC	28	2018	AJC	0	28	AJC
GA	DOUGLAS COUNTY	0	0%	25	2012	AJC	25	2018	AJC	0	25	AJC
GA	EARLY COUNTY	-6	-65%	11	2012	AJC	5	2018	AJC	-6	n	AJC
GA	ECHOLS COUNTY	0	0%	1	2012	AJC	1	2018	AJC	0	1	AJC
GA	EPFINGHAM COUNTY	0	0%	17	2012	AJC	17	2018	AJC	D	17	AJC
GA	ELBERT COUNTY	0	0%	11	2012	AJC	11	2018	AJC	D	11	AJC
GA	EMANUEL COUNTY	,	-8%	12	2012	AJC	11	2018	AJC	4	12	AJC
GA	EVANS COUNTY	0	0%	1	2012	AJC	1	2018	AJC	0	1	AJC
GA	FANNIN COUNTY	0	0%	12	2012	AJC	12	2018	AJC	0	12	AJC
GA	PAYETTE COUNTY	0	0%	36	2012	AJC	36	2018	DLA	0	36	AJC
GA	FLOYD COUNTY	0	0%	25	2012	AJC	25	2018	AJC	0	25	AJC
GA	FORSYTH COUNTY	.9	-36%	25	2012	AJC	16	2018	AJC	0	16	AJC
GA	FRANKLIN COUNTY	-6	-46%	13	2012	AJC	7	2018	AJG	-6	13	AJC
GA	FULTON COUNTY	22	6%	351	2012	AJC	373	2018	AJC	7	366	AJC
GA	GILMER COUNTY		0%	13	2012	AJC	13	2018	DLA	0	13	AJC
GA	GLASCOCK COUNTY	0	0%	4	2012	AJC	4	2018	AJC	0	4	AJC
GA	GLYNN COUNTY	0	0%	21	2012	AJC	21	2018	AJC	0	21	AJC
GA	GORDON COUNTY	-1	-8%	13	2012	AJC	12	2018	AJC	0	12	AJC
GA	GRADY COUNTY	0	0%	13	2012	AJC	13	2018	AJC	0	13	AJC
GA	GREENE COUNTY	-3	-38%	8	2012	AJC	5	2018	AJC	-3	s	AJC
GA	GWINNETT COUNTY		1%	156	2012	AJC	157	2018	AJC	,	156	AJC
GA	HABERSHAM COUNTY	-7	-50%	14	2012	AJC	7	2018	AJC	2	5	AJC
GA	HALL COUNTY	4	-11%	35	2012	AJC	31	2018	AJC	4	35	AJC
GA	HANCOCK COUNTY	3	43%	7	2012	AJC	10	2018	AJC	0	10	AJC
GA	HARALSON COUNTY	0	0%	12	2012	AJC	12	2018	AJC	0	12	AJC
GA	HARRIS COUNTY	0	0%	12	2012	ЭLА	12	2018	DLA	0	12	AJC
GA	HART COUNTY	0	0%	7	2012	AJC	7	2018	AJC	٥	,	AJC

			% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election	Post-Shelby Election Count		Post-Shelby Election Source	to	Midterm	2014 Midterm Source
GA	HEARD COUNTY	Changed	-33%	9	2012	AJC	6		AJC	O		AJC
GA	HENRY COUNTY		-3%	38	2012	AJC	37	2018	AJC		38	AJC
GA	HOUSTON COUNTY	-7	-30%	23	2012	AJC	16		AJC	-3	19	AJC
GA	IRWIN COUNTY	-6	-63%	8	2012	AJC	3		AJC	-6	8	AJC
GA	JACKSON COUNTY	-12	-75%	16	2012	AJC	4	2018	AJC	-12	16	AJC
GA	JASPER COUNTY	4	-57%	7	2012	AJC	3	2018	AJC	0	3	AJC
GA	JEFF DAVIS COUNTY	0	0%	9	2012	AJC	9	2018	AJC	0	9	AJC
GA	JEFFERSON COUNTY	o	0%	8	2012	AJC	8	2018	AJC	0	8	AJC
GA	JENKINS COUNTY	0	0%	5	2012	AJC	5	2018	AJC	0	5	AJC
GA	JOHNSON COUNTY	0	0%	4	2012	AJC	4	2018	AJC	0		AJC
GA	JONES COUNTY	-4	-9%	11	2012	AJC	10	2018	AJC	0	10	AJC
GA	LAMAR COUNTY	0	0%	6	2012	AJC	6	2018	AJC	0	6	AJC
GA	LANIER COUNTY	-3	-75%	4	2012	AJC	1	2018	AJC	-3	4	AJC
GA	LAURENS COUNTY	,	-6%	17	2012	AJC	16	2018	AJC	-	17	AJC
GA	LEE COUNTY	0	0%	10	2012	AJC	10	2018	AJC	o	10	AJC
GA	LIBERTY COUNTY	0	0%	13	2012	AJC	13	2018	AJC	0	13	AJC
GA	LINCOLN COUNTY	0	0%	7	2012	AJC	7	2018	AJC	0	7.	AJC
GA	LONG COUNTY	2	40%	5	2012	AJC	7	2018	AJC	0	7	AJC
GA	LOWNDES COUNTY	-3	-25%	12	2012	AJC	9	2018	AJC	0	9	AJC
GA	LUMPKIN COUNTY	-8	-89%	9	2012	AJC	1	2018	AJC	-6	7	AJC
GA	MACON COUNTY		0%	5	2012	AJC	5	2018	AJC	0	5	AJC
GA	MADISON COUNTY	0	0%	12	2012	AJC	12	2018	AJC	0	12	AJC
GA	MARION COUNTY	-2	-29%	7	2012	AJC	5	2018	AJC	-2	7	AJC
GA	MCDUFFIE COUNTY		-10%	10	2012	AJC	9	2018	AJC	-1	10	AJC
GA	MCINTOSH COUNTY	0	0%	6	2012	AJC	6	2018	AJC	0	6	DLA
GA	MERIWETHER COUNTY	0	0%	14	2012	AJC	14	2018	AJC	0	14	ALIC
GA	MILLER COUNTY	0	0%	1	2012	AJC	1	2018	DLA	0	1	AJC
GA	MITCHELL COUNTY	ō	0%	11	2012	AJC	11	2018	AJC	0	- 11	AJC
GA	MONROE COUNTY	0	0%	14	2012	AJC	14	2018	OLA .	0	14	AJC
GA	MONTGOMERY COUNTY	0	0%	7	2012	AJC	7	2018	AJC	0	7	AJC

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	to		2014 Midterm Source
GA	MORGAN COUNTY	-4	-36%	11	2012	AJC	7	2018	AJC	0		AJC
GA	MURRAY COUNTY	0	0%	,	2012	AJC	7	2018	AJC	0	7	AJC
GA	MUSCOGEE COUNTY	-3	-11%	28	2012	AJC	25	2018	AJC	-2	27	AJC
GA	NEWTON COUNTY	0	0%	22	2012	AJC	22	2018	AJC	0	22	AJC
GA	OCONES COUNTY	0	0%	13	2012	AJC	13	2018	AJC	0	13	AJC
GA	OGLETHORPE COUNTY	,	-70%	10	2012	AJC	3	2018	AJC	0	3	AJC
GA	PAULDING COUNTY	-2	-14%	14	2012	AJC	12	2018	AJC	-2	14	AJC
GA	PEACH COUNTY	0	0%	7	2012	AJC	7	2018	AJC	0	7	AJC
GA	PICKENS COUNTY	0	0%	12	2012	OLA	12	2018	AJC	D	12	AJC
GA	PIERCE COUNTY	0	0%	8	2012	AJC	8	2018	AJC	0	8	AJC
GA	PIKE COUNTY	0	0%	8	2012	AJC	8	2018	AJC	0	8	AJC
GA	POLK COUNTY	0	0%	7	2012	AJC	7	2018	AJC	-0	7	AJC
GA	PULASKI COUNTY	-2	-67%	3	2012	AJC	1	2018	AJC	0	1	AJC
GA	PUTNAM COUNTY	-3	38%	8	2012	AJC	5	2018	AJC	0	5	AJC
GA	GUITMAN COUNTY	0	0%	2	2012	DLA	2	2018	AJC	0	2	AJC
GA	RABUN COUNTY	0	0%	1	2012	AJC	1	2018	AJC	0		AJC
GA	RANDOLPH COUNTY	0	0%	9	2012	AJC	9	2018	AJC	0		AJC
GA	RICHMOND COUNTY	9	-12%	78	2012	AJG	69	2018	AJC	0		AJC
GA	ROCKDALE COUNTY	-2	-11%	18	2012	AJC	16		AJC	-2	18	AJC
GA	SCHLEY COUNTY	0	0%		2012	AJC	1	2018	AJC	0	Addition 1	AJC
GA GA	SCREVEN COUNTY SEMINOLE COUNTY	0	0%	12 5	2012	AJC AJC	12 5	2018	AJC AJC	0	12 5	AJC AJC
GA	SPALDING COUNTY	-3	-14%	21	2012	AJC	18	2018	AJC	-3	21	AJC
GA	STEPHENS COUNTY	,	-88%	8	2012	J.K.		2018	AJG	0	1000000	AJC
GA	STEWART COUNTY	0	0%	4	2012	AJC	4	2018	AJC	0		AJC
GA	SUMTER COUNTY	0		11		AJC	11	2018	AJC	0		AJC
GA	TALBOT COUNTY	0	0%	7	2012	AJC	7	2018	AJC	0		AJC
GA	TALIAFERRO COUNTY		0%	2	2012	AJC	2	2018	AJC	٥	2	AJC
GA	TATTNALL COUNTY	-1	-11%	9	2012	AJC	8	2018	DLA	-1	9	AJC
GA	TAYLOR COUNTY	.,	-25%	4	2012	AJC	3	2018	AJC	.1	4	AJC

		,		Benchmark Election	Benchmark Election	Benchmark Election	Post-Shelby Election	Post-Shelby Election	Post-Shelby Election	Midterm	2014 Midterm	2014 Midterm
State	County	Changed	Changed	Count	Year	Source	Count	Year	Source	Midterm	Count	Source
GA	TELFAIR COUNTY	0	0%	6	2012	AJC	6	2018	AJC	0	6	AJC
GA	TERRELL COUNTY	0	0%	6	2012	AJC	6	2018	_ AJC	۰	6	AJC
GA	THOMAS COUNTY	0	0%	20	2012	AJC	20	2018	DLA	0	20	AJC
GA	TIFT COUNTY	0	0%	12	2012	AJĆ	12	2018	AJC	0	12	ÁJC
GA	TOOMBS COUNTY	-9	-64%	14	2012	AJC	5	2018	AJC	0	5	AJC
GA	TOWNS COUNTY	0	0%	4	2012	OLA	4	2018	AJC	0	4	AJC
GA	TREUTLEN COUNTY	-4	-67%	6	2012	AJC	2	2018	DLA	-4	6	AJC
GA	TROUP COUNTY	-1	-6%	16	2012	AJC	15	2018	AJC	0	15	AJC
GA	TURNER COUNTY	0	0%	3	2012	AJC	3	2018	AJC	0	3	AJC
GA	TWIGGS COUNTY	0	0%	5	2012	AJC	5	2018	AJC	0	5	AJC
GA	UNION COUNTY	0	0%	11	2012	AJC	11	2018	AJC	0	11	AJC
GA	UPSON COUNTY	. 5	-56%	9	2012	AJC	4	2018	AJC	.5	9	AJĊ
GA	WALKER COUNTY	0	0%	11	2012	AJC	11	2018	AJC	0	11	AJC
GA	WALTON COUNTY	0	0%	21	2012	AJC	21	2018	AJC	0	21	AJC
GA	WARE COUNTY	0	0%	12	2012	AJC	12	2018	AJC	0	12	AJC
GA	WARREN COUNTY	-5	-83%	6	2012	AJC	1	2018	AJC	0	1	AJC
GA	WASHINGTON COUNTY	0	0%	8	2012	OLA	8	2018	DLA	0	8	AJC
GΑ	WAYNE COUNTY	-3	-20%	15	2012	AJC	12	2018	AJC	3	15	AJC
GA	WEBSTER COUNTY	0	0%	1	2012	AJC	1	2018	AJC	0	1	AJC
GA	WHEELER COUNTY	0	0%	2	2012	AJĆ	2	2018	AJC	0	2	AJC
GA	WHITE COUNTY	0	0%	11	2012	AJC	11	2018	AJC	0	11	AJC
GA	WHITFIELD COUNTY	0	0%	23	2012	AJC	23	2018	AJC	0	23	AJC
GA	WILCOX COUNTY	0	0%	6	2012	AJC	6	2018	AJC	0	6	AJC
GA	WILKES COUNTY	0	0%	7	2012	AJC	7	2018	AJC	0	,	AJC
GA	WILKINSON COUNTY	0	0%	9	2012	AJC	9	2018	AJC	0	9	AJC
GA	WORTH COUNTY	0	0%	15	2012	OLA	15	2018	DLA	0	15	ыс
LA	ACADIA PARISH	0	0%	40	2012	EAVS	40	2018	Handcount	0	40	EAVS
LA	ALLEN PARISH	-4	-5%	22	2012	EAVS	21	2018	Handcount	-1	22	EAVS
LA	ASCENSION PARISH	3	9%	34	2012	EAVS	37	2018	Handcount	0	37	EAVS
LA	ASSUMPTION PARISH	-2	-12%	17	2012	EAVS	95	2018	Handcount	4	16	EAVS

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	Midterm to Midterm		2014 Midterm Source
LA	AVOYELLES PARISH	1	-4%	28	2012	EAVS	27	2018	Handcount	0		EAVS
LA	BEAUREGARD PARISH	0	0%	28	2012	EAVS	28	2018	Handcount	0	28	EAVS
LA	BIENVILLE PARISH	-3	-14%	21	2012	EAVS	18	2018	Handcount	0		EAVS
LA	BOSSIER PARISH		-4%	50	2012	EAVS	48	2018	Handcount		49	EAVS
LA	CADDO PARISH	-6	-7%	88	2012	EAVS	82	2018	Handcount	-4	86	EAVS
LA	CALCASIEU PARISH	4	-5%	78	2012	EAVS	74	2018	Handcount	3	77	EAVS
ŁA	CALDWELL PARISH	0	0%	12	2012	EAVS	12	2018	Handcount	0	12	EAVS
LA	CAMERON PARISH	,	13%	8	2012	EAVS	9	2018	Handcount		8	EAVS
LA	CATAHOULA PARISH	-1	-6%	16	2012	EAVS	15	2018	Handcount	-4	16	EAVS
LA	CLAIBORNE PARISH	0	0%	8	2012	EAVS		2018	Handcount	0		EAVS
LA	CONCORDIA PARISH	-1	-6%	18	2012	EAVS	17	2018	Handcount	-1	18	EAVS
LA	DE SOTO PARISH		-7%	27	2012	EAVS	25	2018	Handcount	٠,	24	EAVS
LA	EAST BATON ROUGE PARISH	-10	-7%	147	2012	EAVS	137	2018	Handcount	-8	145	EAVS
LA	EAST CARROLL PARISH		-7%	14	2012	EAVS	13	2018	Hendcount	4	14	EAVS
LA	EAST FELICIANA PARISH	0	0%	12	2012	EAVS	12	2018	Handcount	0	12	EAVS
LA	EVANGELINE PARISH	-3	-9%	33	2012	EAVS	30	2018	Handcount		31	EAVS
LA	FRANKLIN PARISH	0	0%	18	2012	EAVS	18	2018	Handcount	0	18	EAVS
LA	GRANT PARISH		-7%	15	2012	EAVS	14	2018	Handcount		15	EAVS
LA	IBERIA PARISH	0	0%	41	2012	EAVS	41	2018	Handcount	0	41	EAVS
LA	IBERVILLE PARISH	-2	-8%	25	2012	EAVS	23	2018	Handcount	4	24	EAVS
LA	JACKSON PARISH		0%	14	2012	EAVS	14	2018	Handcount	0	14	EAVS
LA	JEFFERSON DAVIS PARISH	,	-7%	15	2012	EAVS	14	2018	Handcount	0	14	EAVS
ŁA	JEFFERSON PARISH	-25	-15%	170	2012	EAVS	145	2018	Handcount	-24	169	EAVS
LA	LAFAYETTE PARISH	-10	-17%	58	2012	EAVS	48	2018	Handcount	•	47	EAVS
LA	LAFOURCHE PARISH	-1	-2%	48	2012	EAVS	47	2018	Handcount	0	47	EAVS
LA	LASALLE PARISH	,	-4%	23	2012	EAVS	22	2018	Handcount	0	22	EAVS
LA	LINCOLN PARISH	-2	-8%	26	2012	EAVS	24	2018	Handcount	-1	25	EAVS
LA	LIVINGSTON PARISH		-3%	37	2012	EAVS	36	2018	Handcount	-2	38	EAVS
LA	MADISON PARISH	0	0%	16	2012	EAVS	16	2018	Handcount	0	16	EAVS
LA	MOREHOUSE PARISH	-3	14%	21	2012	EAVS	18	2018	Handcount		19	EAVS

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Past-Sheiby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	Midterm to Midterm	2014 Midterm Count	2014 Midterm Source
£Α	NATCHITOCHES PARISH	-1	-2%	42	2012	EAVS	41	2018	Handcount	-1	42	EAVS
i.a	ORLEANS PARISH	-5	-4%	129	2012	EAVS	124	2018	Handcount	0	124	EAVS
LA	OUACHITA PARISH	-1	· 2 %	50	2012	EAVS	49	2018	Handcount	-1	50	EAVS
t.A	PLAQUEMINES PARISH		-10%	10	2012	EAVS	g	2018	Handcount		10	EAVS
LA	POINTE COUPEE PARISH	-2	-10%	21	2012	EAVS	19	2018	Handcount	0	19	EAVS
LA	RAPIDES PARISH		-1%	69	2012	EAVS	68	2018	Handcount		69	EAVS
LA	RED RIVER PARISH	1	-8%	13	2012	EAVS	12	2018	Handcount	-1	13	EAVS
LA	RICHLAND PARISH	4	-6%	17	2012	EAVS	16	2018	Handcount	0	16	EAVS
LA	SABINE PARISH	-2	-7%	30	2012	EAVS	28	2018	Handcount	-1	29	EAVS
LA	ST. BERNARD PARISH	0	0%	40	2012	EAVS	10	2018	Handcount	0	10	EAVS
LA	ST. CHARLES PARISH	-3	-12%	26	2012	EAVS	23	2018	Handcount	4	24	EAVS
LA	ST. HELENA PARISH		0%	9	2012	EAVS	9	2018	Handcount	0	9	EAVS
LA.	ST. JAMES PARISH	.4	-8%	13	2012	EAVS	12	2018	Handcount	.1	13	EAVS
LA	ST. JOHN THE BAPTIST PA	0	0%	15	2012	EAVS	15	2018	Hendcount	,	16	EAVS
LA	ST. LANDRY PARISH	-3	-5%	59	2012	EAVS	56	2018	Handcount	-1	57	EAVS
LA.	ST. MARTIN PARISH	-3	-10%	31	2012	EAVS	28	2018	Handcount	-3	31	EAVS
t.a	ST. MARY PARISH	0	0%	45	2012	EAVS	45	2018	Handcount	0	45	EAVS
LA	ST. TAMMANY PARISH	3	5%	61	2012	EAVS	64	2018	Handcount		65	EAVS
LA	TANGIPAHOA PARISH	0	0%	38	2012	EAVS	38	2018	Handcount	-1	39	EAVS
LA	TENSAS PARISH		-11%	9	2012	EAVS	8	2018	Handcount	4	9	EAVS
LA	TERREBONNE PARISH	-7	-12%	57	2012	EAVS	50	2018	Handcount	-3	53	EAVS
LA	UNION PARISH		-5%	22	2012	EAVS	21	2018	Handcount	4	22	EAVS
ŁΑ	VERMILION PARISH	-2	-7%	30	2012	EAVS	28	2018	Handcount	-2	30	EAVS
LA	VERNON PARISH	0	0%	30	2012	EAVS	30	2018	Handcount	0	30	EAVS
LA	WASHINGTON PARISH	0	0%	27	2012	EAVS	27	2018	Handcount	0	27	EAVS
LA	WEBSTER PARISH	0	0%	17	2012	EAVS	17	2018	Handcount	0	17	EAVS
LA	WEST BATON ROUGE PARISH	-1	-6%	16	2012	EAVS	15	2018	Handcount	-1	16	EAVS
LA	WEST CARROLL PARISH	0	0%	9	2012	EAVS	9	2018	Handcount	0	9	EAVS
LA	WEST FELICIANA PARISH	0	0%	12	2012	EAVS	12	2018	Handcount	o	12	EAVS
LA	WINN PARISH	-5	-24%	21	2012	EAVS	16	2018	Handcount		17	EAVS

			%	Benchmark Election	Benchmark Election	Benchmark Election	Election	Election	Election	to	Midterm	2014 Midterm
State	ADAMS COUNTY	Changed		Count 20	Year 2012	Source	Count 19	Year 2018	Source	Midterm		Source
MS	ALCORN COUNTY			20	2012	Handcount	17	2018	Handcount	0		Handcount
MS	AMITE COUNTY	0	0%	21	2012	Handcount	21	2018	Handcount	0		EAVS
MS	ATTALA COUNTY	0	0%	20	2012	Handcount	20	2018	Handcount		19	Handcount
MS	BENTON COUNTY	0	0%	5	2014	Handcount	5	2018	Handcount	0	5	Handcount
MS	BOLIVAR COUNTY		-3%	29	2012	Handcount	28	2018	Handcount	0	28	Handcount
MS	CALHOUN COUNTY	0	0%	10	2012	Handcount	10	2018	Handcount	0	10	Handcount
MS	CARROLL COUNTY	0	0%	13	2012	Handcount	13	2018	Handcount	4	14	EAVS
MS	CHICKASAW COUNTY	2	15%	13	2012	Handcount	15	2018	Handcount	0	15	Hendcount
MS	CHOCTAW COUNTY	2	15%	13	2012	EAVS	15	2018	Handcount	2	13	EAVS
MS	CLAIBORNE COUNTY	1	11%	9	2012	Hendcount	10	2018	Handcount		9	Handcount
MS	CLARKE COUNTY	0	0%	23	2012	EAVS	23	2018	Handçoont	0	23	EAVS
MS	CLAY COUNTY	0	0%	14	2012	EAVS	14	2018	Handcount	0	14	EAVS
MS	COAHOMA COUNTY		-5%	19	2014	Hendcount	18	2018	Handcount		19	Handcount
MS	COPIAH COUNTY	0	0%	19	2012	Handcount	19	2018	Handcount	4	20	EAVS
MS	COVINGTON COUNTY	-2	-11%	18	2012	EAVS	16	2018	Handcount	-2	18	EAVS
MS	DESOTO COUNTY	3	8%	38	2012	Handcount	41	2018	Handcount	2	39	EAVS
MS	FORREST COUNTY		3%	35	2014	Handcount	34	2018	Handcount	4	35	Handcount
M5	FRANKLIN COUNTY	0	0%	14	2012	EAVS	14	2018	Handcount	0	14	EAVS
MS	GEORGE COUNTY	0	0%	22	2012	EAVS	22	2018	Handcount	0	22	EAVS
MS	GREENE COUNTY	0	0%	13	2012	Handcount	13	2018	Handcount	-4	14	EAVS
MS	GRENADA COUNTY	0	0%	12	2014	Handcount	_ 12	2018	Handcount	0	12	Handcount
MS	HANCOCK COUNTY	O Assistanta	0%	25	2014	Handcount	25	2018	Handcount	0	25	Handcount
MS	HARRISON COUNTY	-13	-20%	66	2012	EAVS	53	2018	Handcount	N/A	N/A	N/A
MS	HINDS COUNTY	-8	-7%	118	2012	Handcount	110	2018	Handcount	N/A	N/A	N/A
MS	HOLMES COUNTY	0	.0%	17	2012	Handcount	17	2018	Handcount	0	17	Handcount
MS	HUMPHREYS COUNTY	0	1000	13	2012	Handcount	13	2018	Handcount	0		Handcount
MS	ISSAQUENA COUNTY	0	0%	5	2012	EAVS	5		Handcount	0		EAVS
MS	ITAWAMBA COUNTY	-3	135000	27	2012	EAVS	24	2018	Handcount	0	24	EAVS
MS	JACKSON COUNTY		3%	31	2012	EAVS	32	2018	Handcount		31	EAVS

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Sheiby Election Year	Post-Shelby Election Source	to		2014 Midterm Source
MS	JASPER COUNTY	-1	-6%	18	2012	Handcount	17	2018	Handcount	1	16	EAVS
MS	JEFFERSON COUNTY	-3	-20%	15	2012	Handcount	12	2018	Handcount	2	14	Handcount
MS	JEFFERSON DAVIS COUNTY	-4	-19%	21	2014	Handcount	17	2018	Handcount	-4	21	Handcount
MS	JONES COUNTY	0	0%	37	2014	Handcount	37	2018	Handcount	0	37	Handcount
MS	KEMPER COUNTY	0	0%	14	2012	Handcount	14	2018	Handcount	1	13	Handcount
MS	LAFAYETTE COUNTY	0	0%	18	2012	Handcount	18	2018	Handcount	0	18	EAVS
MS	LAMAR COUNTY	2	10%	21	2014	Handcount	23	2018	Handcount	2	21	Handcount
MS	LAUDERDALE COUNTY	.9	-18%	49	2012	EAVS	40	2018	Handcount	-3	43	EAVS
MS	LAWRENCE COUNTY	.2	-8%	26	2014	Handcount	24	2018	Handcount	-2	26	Handcount
MS	LEAKE COUNTY	0	0%	19	2012	Hendcount	19	2018	Handcount	0	19	Handcount
MS	LEE COUNTY	-2	-5%	38	2014	Handcount	36	2018	Handcount	-2	38	Handcount
MS	LEFLORE COUNTY	,	-5%	19	2012	Handcount	18	2018	Handcount	-1	19	Handcoum
MS	LINCOLN COUNTY	-2	-6%	32	2012	Handcount	30	2018	Handcount	N/A	N/A	N/A
MS	LOWNDES COUNTY	4	-5%	22	2012	Handcount	21	2018	Handcount	-4	22	EAVS
MS	MADISON COUNTY	-1	-2%	43	2014	Handcount	42	2018	Handcount	-4	43	Handcount
MS	MARION COUNTY	-2	-8%	24	2012	EAVS	22	2018	Handcount	,	23	EAVS
MS	MARSHALL COUNTY	0	0%	24	2012	Handcount	24	2018	Handcount	0	24	Handcount
MS	MONROE COUNTY	0	0%	26	2012	EAVS	26	2018	Handcount	0	26	EAVS
M5	MONTGOMERY COUNTY	-1	-6%	16	2012	Handcount	15	2018	Handcount	0	15	EAVS
MS	NESHOBA COUNTY	0	0%	27	2012	Handcount	27	2018	Handcount	0	27	Handcount
MS	NEWTON COUNTY	-3	-16%	19	2012	Handcount	16	2018	Handcount	N/A	N/A	N/A
MS	NOXUBEE COUNTY		-20%	10	2012	Handcount	8	2018	Handcount	-2	10	Handcount
MS	OKTIBBEHA COUNTY	0	0%	20	2012	Handcount	20	2018	Handcount	-4	21	EAVS
MS	PANOLA COUNTY	-2	-8%	24	2012	Handcount	22	2018	Handcount	2	24	Handcount
M5	PEARL RIVER COUNTY	-13	-39%	33	2012	Handcount	20	2018	Handcount	-13	33	Handcount
MS	PERRY COUNTY	0	0%	15	2012	Hendcount	15	2018	Handcount	-1	16	EAVS
MS	PIKE COUNTY	0	0%	25	2014	Handcount	25	2018	Handcount	0	25	Handcount
MS	PONTOTOC COUNTY	4	-3%	29	2012	Handcount	28	2018	Handcount	0	28	EAVS
MS	PRENTISS COUNTY	0	0%	15	2012	EAVS	15	2018	Handcount	0	15	EAVS
MS	QUITMAN COUNTY		11%	9	2012	EAVS	10	2018	Handcount	ó	10	EAVS

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Past-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	Midterm to Midterm	2014 Midterm Count	2014 Midterm Source
MS	RANKIN COUNTY	-4	-8%	53	2012	EAVS	49	2018	Handcount	4	50	EAVS
MS	SCOTT COUNTY	-2	-8%	25	2014	Handcount	23	2018	Handcount	2	25	Handcount
MS	SHARKEY COUNTY		0%	10	2012	EAVS	10	2018	Handcount	N/A	N/A	N/A
MS	SIMPSON COUNTY	0	0%	23	2014	Handcount	23	2018	Handcount	0	23	Handcount
MS	SMITH COUNTY		0%	18	2012	EAVS	18	2018	Handcount	N/A	N/A	N/A
MS	STONE COUNTY	0	0%	15	2012	EAVS	15	2018	Handcount	0	15	EAVS
MS	SUNFLOWER COUNTY	0	0%	17	2014	Handcount	17	2018	Handcount	0	17	Handcount
MS	TALLAHATCHIE COUNTY	0	0%	21	2012	Handcount	21	2018	Handcount	0	21	Handcount
MS	TATE COUNTY	1	5%	19	2012	Hendcount	20	2018	Handcount	0	20	EAVS
MS	TIPPAH COUNTY	0	0%	24	2012	EAVS	24	2018	Handcount	0	24	EAVS
MS	TISHOMINGO COUNTY	-5	-26%	19	2012	Handcount	14	2018	Handcount	0	14	EAVS
MS	TUNICA COUNTY	0	0%	12	2014	Handcount	12	2018	Handcount	0	12	Handcount
MS	UNION COUNTY	0	0%	20	2014	Handcount	20	2018	Handcount	0	20	Handcount
MS	WALTHALL COUNTY	4	-5%	21	2012	Handcount	20	2018	Handcount	4	21	Handcount
MS	WARREN COUNTY	1	5%	22	2012	Handcount	23	2018	Handcount	1	22	Handcount
MS	WASHINGTON COUNTY	0	0%	19	2012	Handcount	19	2018	Handcount	0	19	Handcount
MS	WAYNE COUNTY	0	0%	22	2014	EAVS	22	2018	Handcount	0	22	EAVS
MS	WEBSTER COUNTY	0	0%	17	2012	Handcount	17	2018	Handcount	0	47	EAVS
M5	WILKINSON COUNTY	0	0%	9	2014	Hendcount	9	2018	Handcount	0	9	Handcount
MS	WINSTON COUNTY	0	. 0%	12	2012	EAVS	12	2018	Handcount	0	12	EAVS
MS	YALOBUSHA COUNTY	-2	-45%	13	2012	EAVS	11	2018	Handcount	N/A	N/A	NA
MS	YAZOO COUNTY	- 2	-8%	25	2012	Hendcount	23	2018	Handcount	-2	25	Handcount
NC	ANSON COUNTY	0	0%	11	2012	Handcount	11	2018	Handcount	0	#1	Handcount
NC	BEAUFORT COUNTY	0	0%	20	2012	Handcount	20	2018	Handcount	0	20	Handcount
NC	BERTIE COUNTY	0	0%	11	2012	Handcount	11	2018	Handcount	0	#1 (\$40%(76))	Handcount
NC	BLADEN COUNTY	0	0%	17	2012	Handcount	17	2018	Handcount	0	17	Handcount
NC	CAMDEN COUNTY	0	0%	3	2012	Handcount	3	2018	Handcount	0	3	Handcount
NC	CASWELL COUNTY	- 4	-10%	10	2012	Handcount	9	2018	Handcount	- 4	10	Handcount
NC	CHOWAN COUNTY	0	0%	6	2012	Hendcount	6	2018	Handcount	0	6	Handcount
NC	CLEVELAND COUNTY	-5	49%	26	2012	Handcount	21	2018	Handcount	0	21	Handcount

State	County	Channed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source			Post-Shelby Election Source	Midterm to Midterm		2014 Midterm Source
NC	CRAVEN COUNTY	-3	-11%	27	2012	Handcount	24	2018	Handcount	-2	26	
NC	CUMBERLAND COUNTY	0	0%	77	2012	Handcount	77	2018	Handcount	0	77	Handcount
NC	EDGECOMBE COUNTY	0	0%	21	2012	Handcount	21	2018	Handcount	0	21	Handcount
NC	FRANKLIN COUNTY	0	0%	18	2012	Handcount	18	2018	Handcount	0	18	Handcount
NC	GASTON COUNTY		0%	46	2012	Handcount	46	2018	Handcount	0	46	Handcount
NC	GATES COUNTY	0	0%	6	2012	Hendcount	6	2018	Handcount	0	6	Handcount
NC	GRANVILLE COUNTY		0%	15	2012	Handcount	15	2018	Handcount	0	15	Handcount
NC	GREENE COUNTY	0	0%	10	2012	Handcount	10	2018	Handcount	٥	10	Handcount
NC	GUILFORD COUNTY	0	0%	165	2012	Handcount	165	2018	Handcount	0	165	Handcount
NG	HALIFAX COUNTY	.4	-16%	25	2012	Handcount	21	2018	Handcount	4	25	Handcount
NC	HARNETT COUNTY	1	8%	12	2012	Handcount	13	2018	Handcount	0	13	Handcount
NC	HERYFORD COUNTY	0	0%	13	2012	Handcount	13	2018	Handcount	0	13	Handcount
NC	HOKE COUNTY	1	7%	14	2012	Handcount	15	2018	Handcount	0	15	Handcount
NC	JACKSON COUNTY	4	-7%	15	2012	Handcount	14	2018	Handcount	0	14	Handcount
NC	LEE COUNTY	0	0%	10	2012	Handcount	10	2018	Handcount	0	10	Handcount
NC	LENOIR COUNTY	0	0%	22	2012	Handcount	22	2018	Handcount	0	22	Handcount
NC	MARTIN COUNTY	-1	-8%	12	2012	Handcount	11	2018	Handcount	0	11	Handcount
NC	NASH COUNTY	- 3	-11%	27	2012	Handcount	24	2018	Handcount	-3	27	Handcount
NC	NORTHAMPTON COUNTY	0	0%	18	2012	Handcount	18	2018	Handcount	0	18	Handcount
NC	ONSLOW COUNTY	0	0%	24	2012	Handcount	24	2018	Handcount	0	24	Handcount
NC	PASQUOTANK COUNTY	-4	-31%	13	2012	Handcount	9	2018	Handcount	-4	13	Handcount
NC	PERQUIMANS COUNTY	0	0%	7	2012	Handcount	7	2018	Handcount	0	7	Handcount
NC	PERSON COUNTY	-3	-21%	14	2012	Handcount	11 20 20 20 20 20 20 20 20 20 20 20 20 20 2	2018	Handcount	-3	14	Handcount
NC	PITT COUNTY	0	0%	40	2012	Handcount	40	2018	Handcount	0	40	Handcount
NC	ROBESON COUNTY	4	-10%	42	2012	Handcount	38	2018	Handcount	-1	39	Handcount
NC	ROCKINGHAM COUNTY	0	0%	15	2012	Handcount	15	2018	Handcount	0	15	Handcount
NC	SCOTLAND COUNTY	0	0%	10	2012	Handcount	10	2018	Handcount	0	10	
NC	UNION COUNTY	0	0%	52	2012	Handcount	-1122	2018	Handcount	0		Handcount
NC	VANCE COUNTY	0	0%	12	2012	Hendcount	12	2018	Handcount	0		
NC	WASHINGTON COUNTY	0	0%	6	2012	Handcount	6	2018	Handcount	0	- 6	Handcount

State	County	Chancad	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Efection Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	to	2014 Midterm Count	2014 Midterm Source
NC	WAYNE COUNTY	0	0%	29	2012	Handcount	29	2018	Handcount	0	29	Hendcount
NC	WILSON COUNTY	0	0%	24	2012	Handcount	24	2018	Handcount	٥	24	Handcount
NY	BRONX COUNTY	-8	-4%	198	2016	EAVS	190	2018	EAVS	N/A	N/A	N/A
NY	KINGS COUNTY	-6	-1%	404	2016	EAVS	398	2018	EAVS	N/A	N/A	N/A
NY	NEW YORK COUNTY	12	5%	265	2016	EAVS	277	2018	EAVS	N/A	N/A	N/A
sc	ABBEVILLE COUNTY	0	0%	14	2012	Handcount	14	2018	Handcount	0	14	Handcount
sc	AIKEN COUNTY	4	6%	69	2012	Hendcount	73	2018	Handcount	4	69	Handcount
šC	ALLENDALE COUNTY	0	0%	8	2012	Handcount	8	2018	Handcount	0	8	Handcount
sc	ANDERSON COUNTY	3	4%	75	2012	Handcount	78	2018	Handcount	0	78	Hendcount
5C	BAMBERG COUNTY	0	.0%	12	2012	Handcount	•	2018	Handcount	0	12	Handcount
sc	BARNWELL COUNTY	-1	-10%	10	2012	Handcount	9	2018	Handcount	-1	10	Handcount
sc	BEAUFORT COUNTY		-2%	58	2012	Handcount	57	2018	Handcount	0	57	Handcount
sc	BERKELEY COUNTY	7	15%	48	2012	Handcount	56	2018	Handcount	8	47	Handcount
sc	CALHOUN COUNTY	0	0%	12	2012	Handcount	12	2018	Handcount	0	12	Handcount
sc	CHARLESTON COUNTY	-10	-10%	105	2012	Handcount	95	2018	Handcount	-8	103	Handcount
sc	CHEROKEE COUNTY	0	0%	29	2012	Handcount	29	2018	Handcount	0	29	Handcount
sc	CHESTER COUNTY	1	5%	20	2012	Handcount	21	2018	Handcount	0	21	Handcount
SC	CHESTERFIELD COUNTY	0	0%	25	2012	Handcount	25	2018	Handcount	0	25	Handcount
sc	CLARENDON COUNTY	0	0%	25	2012	Hendcount	25	2018	Handcount	0	25	Handcount
sc	COLLETON COUNTY	1	3%	31	2012	Handcount	32	2018	Handcount	0	32	Handcount
sc	DARLINGTON COUNTY	0	0%	32	2012	Handcount	32	2018	Handcount	0	32	Handcount
SC	DILLON COUNTY	0	0%	20	2012	Handcount	20	2018	Handcount	0	20	Handcount
sc	DORCHESTER COUNTY	-3	-8%	40	2012	Handcount	37	2018	Handcount	-3	40	Handcount
sc	EDGEFIELD COUNTY		10%	10	2012	Hendcount	•	2018	Handcount	0	11	Handcount
sc	FAIRFIELD COUNTY	0	0%	20	2012	Hendcount	20	2018	Handcount	0	20	Handcount
sc	FLORENCE COUNTY	-2	-3%	61	2012	Handcount	59	2018	Handcount	,	60	Handcount
sc	GEORGETOWN COUNTY	1	3%	31	2012	Handcount	32	2018	Handcount	0	32	Handcount
sc	GREENVILLE COUNTY	0	0%	150	2012	Handcount	150	2018	Handcount	0	150	Handcount
sc	GREENWOOD COUNTY	5	11%	45	2012	Handcount	50	2018	Handcount	1	49	Handcount
sc	HAMPTON COUNTY	0	0%	15	2012	Handcount	15	2018	Handcount	0	15	Handcount

State	County	Channed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	to		Midterm
sc	HORRY COUNTY	5	4%	117	2012	Handcount	122	2018	Handcount	a		Handcount
sc	JASPER COUNTY	1	8%	13	2012	Handcount	14	2018	Handcount	0	14	Handcount
SC	KERSHAW COUNTY	-1	-3%	34	2012	Handcount	33	2018	Handcount	1	32	Handcount
sc	LANCASTER COUNTY	,	24%	29	2012	Handcount	36	2018	Hendcount	7	29	Handcount
sc	LAURENS COUNTY	0	0%	34	2012	Handcount	34	2018	Handcount	0	34	Handçount
sc	LEE COUNTY		0%	22	2012	Handcount	22	2018	Handcount	o	22	Handcount
sc	LEXINGTON COUNTY	3	3%	91	2012	Handcount	94	2018	Handcount	-1	95	Handcount
sc	MARION COUNTY	0	0%	17	2012	Handcount	17	2018	Handcount	0	17	Handcount
sc	MARLBORO COUNTY	0	0%	15	2012	Handcount	15	2018	Handcount	o	15	Handcount
sc	MCCORMICK COUNTY		10%	10	2012	Handcount	11	2018	Handcount	0	11	Handcount
sc	NEWBERRY COUNTY	0	0%	29	2012	Handcount	29	2018	Handcount	0	29	Handcount
SC	OCONEE COUNTY		0%	26	2012	Handcount	26	2018	Handcount	0	26	Handcount
sc	ORANGEBURG COUNTY	0	0%	45	2012	Handcount	45	2018	Handcount	0	45	Handcount
SC	PICKENS COUNTY	0	0%	55	2012	Handcount	55	2018	Handcount	0	55	Handcount
sc	RICHLAND COUNTY	20	16%	122	2012	Handcount	142	2018	Handcount	0	142	Handcount
sc	SALUDA COUNTY	0	0%	18	2012	Handcount	18	2018	Handcount	0	18	Handcount
sc	SPARTANBURG COUNTY	0	0%	97	2012	Handcount	97	2018	Handcount	1	96	Handcount
sc	SUMTER COUNTY	0	0%	46	2012	Handcount	46	2018	Handcount	0	46	Handcoun
sc	UNION COUNTY		0%	23	2012	Handcount	23	2018	Handcount	0	23	Handcount
sc	WILLIAMSBURG COUNTY	0	0%	28	2012	Handcount	28	2018	Handcount	0	28	Handcount
sc	YORK COUNTY	3	3%	86	2012	Handcount	89	2018	Handcount	0	89	Handcount
SO	SHANNON/OGLALA LAKOTA COUNTY		-11%	9	2012	EAVS	8	2018	Handcount	4	9	EAVS
SD	TODD COUNTY	0	0%	8	2012	EAVS	8	2018	Handcount	-1	9	EAVS
тx	ANDERSON COUNTY	0	0%	22	2012	EAV \$	22	2018	Handcount	0	22	EAVS
TX	ANDREWS COUNTY	0	0%	1	2012	EAVS	1	2018	EAVS	-1	2	EAVS
тx	ANGELINA COUNTY	-4	-13%	31	2012	EAVS	27	2018	Handcount	3	30	EAVS
TX	ARANSAS COUNTY	-3	-50%	6	2012	EAVS	3	2018	Handcount	-3	6	EAVS
тx	ARCHER COUNTY		-27%	n	2012	EAVS	8	2018	Handcount	3	11	EAVS
тx	ARMSTRONG COUNTY	-3	-50%	6	2012	EAVS	3	2018	Handcount	-3	6	EAVS
τx	ATASCOSA COUNTY	0	O%	23	2012	EAVS	23	2018	Handcount	0	23	EAVS

			4.	Benchmark Election	Benchmark Election	Benchmark Election	Past-Shelby Election	Post-Shelby Election	Post-Shelby Election	Midterm	2014 Midterm	2014 Midterm
State	County	Changed	Changed	Count	Year	Source	Count	Year	Source		Count	Source
TX	AUSTIN COUNTY	-2	-11%	18	2012	EAVS	16	2018	Handcount	N/A	N/A	N/A
ŧΧ	BAILEY COUNTY	0	0%	1	2012	EAVS	4	2018	EAVS		2	EAVS
τx	BANDERA COUNTY	0	0%	10	2012	EAVS	10	2018	Handcount	0	10	EAVS
тx	BASTROP COUNTY	,	5%	20	2012	EAVS	21	2016	Handcount	,	20	EAVS
тx	BAYLOR COUNTY	0	0%	4	2012	EAVS	4	2018	EAVS	N/A	N/A	N/A
тx	BEE COUNTY	.7	-41%	17	2014	EAVS	10	2018	Handcount	-7	17	EAVS
тx	BELL COUNTY	-1	-2%	47	2012	EAVS	46	2018	Handcount	0	46	EAVS
۲x	BEXAR COUNTY	0	0%	302	2012	EAV5	302	2018	Handcount	4	306	EAVS
7X	BLANCO COUNTY	0	0%	6	2012	EAVS	6	2016	Handcount	2	4	EAVS
ΥX	BORDEN COUNTY		-14%	,	2012	EAVS	6	2018	Handcount	-2	8	EAVS
7×	BOSQUE COUNTY	-5	-36%	14	2012	EAVS	9	2018	Handcount	-2	11	EAVS
τx	BOWIE COUNTY	-3	-9%	35	2012	EAVS	32	2018	Handcount	-3	35	EAVS
тx	BRAZORIA COUNTY	-37	-59%	63	2012	EAVS	26	2018	Handcount	-38	64	EAVS
τx	BRAZOS COUNTY	-41	-31%	36	2012	EAVS	25	2018	Handcount	-11	36	EAVS
тх	BREWSTER COUNTY	-1	-13%	8	2012	EAVS	7	2018	Handcount	-2	9	EAVS
тx	BRISCOE COUNTY	0	0%	5	2012	EAVS	5	2018	Handcount	0	5	EAVS
тx	BROOKS COUNTY	-3	-33%	9	2014	EAVS	6	2018	Handcount	-3	9	EAVS
τx	BROWN COUNTY	.,	6%	16	2012	EAVS	15	2018	Handcount	.1	16	EAVS
TX	BURLESON COUNTY	-1	-7%	14	2012	EAVS	13	2018	Handcount	-1	14	EAVS
τx	BURNET COUNTY	0	0%	20	2012	EAVS	20	2018	Handcount	0	20	EAVS
TX	CALDWELL COUNTY	-13	-52%	25	2012	EAVS	12	2018	Handcount	-5	17	EAVS
тx	CALHOUN COUNTY	,	-30%	23	2012	EAVS	16	2018	Handcount	-8	24	EAVS
TX	CALLAHAN COUNTY	-3	-43%	7	2012	EAVS	4	2018	Handcount	-2	6	EAVS
тx	CAMERON COUNTY	,		83	2012	EAVS	76	2018	Handcount	,	77	EAVS
TX	CAMP COUNTY	0	0%	4	2012	EAVS	4	2018	Handcount	0	4	EAVS
7x	CARSON COUNTY	0		9	2014	EAVS	8	2016	Handcount		8	EAVS
тx	CASS COUNTY	0		18	2012	FAVS	18	2018	Handcount	0	18	EAVS
	CASTRO COUNTY	0			2012	EAVS		2018	FAVS		8	N/A
TX	CHAMBERS COUNTY	0	0%	14	2012	EAVS	16	2018	Handcount		19	FAVS
		WASHING.	33333				STORY OF STREET			5355		
TX	CHEROKEE COUNTY	-2	-8%	25	2012	EAVS	23	2018	Handcount		24	EAVS

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count		Post-Shelby Election Source	to		2014 Midterm Source
тx	CHILDRESS COUNTY	-	-25%	4	2012	EAVS	3		EAVS		4	EAVS
тx	CLAY COUNTY		0%	16	2012	EAVS	16	2016	Handcount		16	EAVS
тx	COCHRAN COUNTY	-2	-40%	5	2012	EAVS	3	2018	Handcount	-3	6	EAVS
τx	COKE COUNTY	-2	-50%		2012	ÉAVS	2	2018	Handcount	-2	4	EAVS
TX	COLEMAN COUNTY	-1	-20%	5	2012	EAVS	4	2018	Handcount	0	4	EAVS
TX	COLLIN COUNTY	2	3%	67	2012	EAVS	69	2018	Hendcount	2	67	EAVS
тx	COLLINGSWORTH COUNTY	,	14%	7	2012	EAVS	8	2016	EAVS	0	8	EAVS
тx	COLORADO COUNTY		-8%	12	2012	EAVS	11	2018	Handcount	2	13	EAVS
TX	COMAL COUNTY	2	9%	22	2012	EAVS	24	2018	Handcount	1	23	EAVS
TX	COMANCHE COUNTY	3	-21%	14	2012	EAVS	11	2018	Handcount	-2	13	EAVS
TX	CONCHO COUNTY		0%	8	2012	EAVS	8	2018	Handcount	0	8	EAVS
τx	COOKE COUNTY	0	0%	16	2012	EAVS	16	2018	Handcount	16	0	EAVS
т×	CORYELL COUNTY	-7	-47%	15	2012	EAVS	8	2018	Handcount	-2	10	EAVS
īΧ	COTTLE COUNTY	2	100%	2	2014	EAVS	4	2018	EAVS	2	2	EAVS
тx	CRANE COUNTY	٥	0%	4	2012	EAVS	4	2018	Handcount	0	4	EAVS
тх	CROCKETT COUNTY	0	0%	4	2012	EAVS	4	2018	Handcount	0	4	EAVS
TX	CULBERSON COUNTY	0	0%	5	2012	EAVS	5	2018	Handcount	-1	6	EAVS
τx	DALLAM COUNTY	0	0%	2	2014	EAVS	2	2018	Handcount	0	2	EAVS
τx	DALLAS COUNTY	-74	-15%	485	2012	EAVS	411	2018	Handcount	-78	489	EAVS
τx	DAWSON COUNTY	0	0%	9	2012	EAVS	9	2018	Handcount	0	9	EAVS
тх	DEAF SMITH COUNTY	2	50%	4	2012	EAVS	6	2018	Handcount	2	4	EAVS
тx	DENTON COUNTY		-3%	97	2012	EAVS	94	2018	EAVS	.9	103	EAVS
τx	DEWITT COUNTY	-1	-13%	8	2012	EAVS	7	2018	Handcount	-2	9	EAVS
ΤX	DICKENS COUNTY	0	0%	6	2012	EAVS	6	2018	Handcount	N/A	N/A	N/A
TX	DIMMIT COUNTY		0%	7	2012	EAVS	7	2018	EAVS	N/A	N/A	EAVS
т×	DONLEY COUNTY	0	0%	6	2012	EAVS	6	2018	Handcount		7	EAVS
тх	DUVAL COUNTY		0%	9	2012	EAVS	9	2018	EAVS	0	9	EAVS
тх	EASTLAND COUNTY	0	0%	9	2012	EAVS	9	2018	Handcount	0	9	EAVS
тх	ECTOR COUNTY	-3	-11%	28	2012	EAVS	25	2018	Handcount	-11	36	EAVS
τx	EDWARDS COUNTY	٥	0%	5	2012	EAVS	5	2018	Handcount		5	EAVS

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	Midterm to Midterm		2014 Midterm Source
τx	EL PASO COUNTY	-6	-4%	150	2014	EAVS	144	2018	Handcount	-6	150	EAVS
τx	ELLIS COUNTY	-2	-5%	39	2012	EAVS	37	2016	Handcount	-4	41	EAVS
тx	ERATH COUNTY	-1	-9%	11	2012	EAVS	10	2018	Handcount	0	10	EAVS
тx	FALLS COUNTY	0	0%	13	2012	EAVS	13	2018	Handcount	N/A	N/A	N/A
TX	FANNIN COUNTY	0	0%	16	2012	EAVS	16	2018	Handcount	4	17	EAVS
ŦΧ	FAYETTE COUNTY	0	0%	26	2012	EAV5	26	2018	Handcount	0	26	EAVS
тх	FISHER COUNTY	-6	-60%	10	2012	EAVS	4	2018	Handcount	-6	10	EAVS
τx	FLOYD COUNTY	0	0%	2	2012	EAVS	2	2018	Handcount	0	2	EAVS
тx	FOARD COUNTY	0	0%	2	2012	EAVS	2	2018	EAVS	0	2	EAVS
ŦΧ	FORT BEND COUNTY	-18	-18%	101	2014	EAVS	83	2016	Handcount	-18	101	EAVS
τx	FRANKLIN COUNTY		0%	8	2012	EAVS	8	2018	Handcount	0	8	EAVS
тx	FREESTONE COUNTY	0	0%	15	2012	EAVS	15	2018	Handcount	0	15	EAVS
тх	FRIO COUNTY	-4	-10%	10	2012	EAVS	9	2018	Handcount	0	9	EAVS
тх	GAINES COUNTY	0	0%	4	2012	EAVS	4	2018	Handcount	- 0	4	EAVS
TX	GALVESTON COUNTY	-10	-22%	45	2012	EAVS	35	2018	Handcount	1	34	EAVS
₹X	GARZA COUNTY	0	0%	6	2012	EAVS	6	2018	Handcount	-1	,	EAVS
τx	GILLESPIE COUNTY	0	0%	13	2012	EAV5	13	2018	Handcount	0	13	EAVS
τx	GLASSCOCK COUNTY	0	0%	4	2012	EAVS	4	2018	Handcount	0	4	EAVS
TX	GOLIAD COUNTY	0	0%	9	2012	EAVS	9 Stem Normania	2018	Handcount	0	9	EAVS
τx	GONZALES COUNTY	0	0%	14	2012	ÉAVS	- 14	2018	Handcount	0	14	EAVS
₹X	GRAY COUNTY	0	0%	7	2012	EAVS	7	2018	Handcount	0	7	EAVS
τx	GRAYSON COUNTY	-13	-36%	36	2012	EAVS	23	2016	Handcount	0	23	EAVS
TX	GREGG COUNTY	-3	-14%	21	2012	EAVS	18	2018	Handcount	-3	21	EAVS
τx	GRIMES COUNTY	1	7%	14	2012	EAVS	15	2018	Handcount	15	0	EAVS
tχ	GUADALUPE COUNTY	4	-3%	35	2012	£AVS	34	2018	Handcount	4	35	EAVS
τx	HALE COUNTY	0	0%	15	2012	EAV5	15	2018	EAVS	0	15	N/A
τx	HALL COUNTY	0	0%	4	2012	EAVS	4	2018	EAVS	-4	5	EAVS
τx	HAMILTON COUNTY	- 2	-18%	и	2012	EAVS	9	2018	Handcount	2	31	EAVS
TX	HANSFORD COUNTY	1	-13%	8	2012	EAVS	7	2018	EAVS	4	8	EAVS
tx	HARDEMAN COUNTY	0	0%	4	2012	EAVS	4	2018	EAVS	0	4	EAVS

State	County	# Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	Midterm to Midterm	2014 Midterm Count	2014 Midterm Source
тx	HARDIN COUNTY	0	0%	19	2012	EAVS	19	2018	Handcount	19	0	EAVS
TX	HARRIS COUNTY	-52	-7%	776	2012	EAV5	724	2018	Handcount	-46	770	EAVS
TX	HARRISON COUNTY	0	0%	26	2012	EAVS	26	2018	Handcount	0	26	EAVS
т×	HARTLEY COUNTY	0	0%	3	2012	EAVS	3	2018	Handcount	0	3	EAVS
τx	HASKELL COUNTY	0	0%	10	2014	EAVS	10	2018	Handcount	0	10	EAVS
ΥX	HAYS COUNTY	0	0%	37	2012	EAVS	37	2018	Handcount	,	36	EAVS
τx	HEMPHILL COUNTY	-4	-11%	9	2014	EAVS	8	2018	EAVS	-1	9	EAVS
τx	HENDERSON COUNTY	0	0%	26	2012	EAVS	26	2018	Handcount	0	26	EAVS
тx	HIDALGO COUNTY	0	0%	74	2012	EAVS	74	2018	Handcount	-1	76	EAVS
т×	HILL COUNTY	o	0%	22	2012	EAVS	22	2018	Handcount	0	22	EAVS
тx	HOCKLEY COUNTY	,	7%	14	2012	EAVS	15	2018	Handcount	1	14	EAVS
τx	HOOD COUNTY	-5	-33%	15	2014	EAVS	10	2018	Handcount	-5	15	EAVS
тx	HOPKINS COUNTY	.9	-43%	21	2012	EAVS	12	2018	Handcount	.9	21	EAVS
тx	HOUSTON COUNTY		5%	21	2012	EAVS	22	2018	Handcount		21	EAVS
тx	HOWARD COUNTY	-1	-17%	6	2012	EAVS	5	2018	Handcount	4	6	EAVS
тx	HUDSPETH COUNTY	0	0%	5	2012	EAVS	5	2018	EAVS	ó	5	EAVS
τx	HUNT COUNTY	-4	-3%	34	2012	EAVS	33	2018	Handcount	-4	34	EAVS
тx	HUTCHINSON COUNTY	0	0%	8	2012	EAVS	8	2018	Handcount	0	8	EAVS
тx	IRION COUNTY	-1	-50%	2	2012	EAVS	1	2018	Handcount	-1	2	EAVS
тx	JACK COUNTY	-2	-33%	6	2012	EAVS	4	2018	Handcount	4	8	EAVS
τx	JACKSON COUNTY	0	0%	9	2012	EAVS	9	2018	Handcount	-1	10	EAVS
тx	JASPER COUNTY	,	5%	20	2012	EAVS	21	2016	Handcount		20	EAVS
тx	JEFF DAVIS COUNTY	0	0%	5	2012	EAVS	5	2018	Handcount	-1	6	EAVS
тx	JEFFERSON COUNTY	-18	-32%	57	2012	EAVS	39	2018	Handcount	4	40	EAVS
тx	JIM HOGG COUNTY	0	0%	4	2012	EAVS	4	2016	Handcount	-1	5	EAVS
тx	JIM WELLS COUNTY	0	0%	21	2012	EAVS	21	2018	EAVS	0	21	EAVS
тx	JOHNSON COUNTY	-3	-10%	31	2012	EAVS	28	2018	Handcount	-1	29	EAVS
τx	JONES COUNTY		-9%	11	2012	EAVS	10	2018	Handcount	14	41	EAVS
тx	KARNES COUNTY	2	15%	13	2014	EAVS	15	2018	Handcount	2	13	EAVS
τx	KAUFMAN COUNTY	0	0%	30	2012	EAVS	30	2018	Handcount	0	30	EAVS

State	County	Changed	% Changed	Benchmark Election Count	Benchmark Election Year	Benchmark Election Source	Post-Sheiby Election Count	Post-Shelby Election Year	Past-Shelby Election Source	to	2014 Midterm Count	2014 Midterm Source
тx	KENDALL COUNTY	-7	-39%	18	2012	EAVS	11	2018	Handcount	-5	16	EAVS
τx	KENEDY COUNTY	0	0%	6	2012	EAVS	6	2016	Handcount	0	6	EAVS
тx	KENT COUNTY	-1	-17%	6	2012	EAVS	5	2018	Handcount	-1	6	EAVS
тx	KERR COUNTY	0	0%	20	2012	EAVS	20	2016	Handcount	0	20	EAVS
TX	KIMBLE COUNTY		0%	4	2012	EAVS	4	2018	EAVS	ø	4	EAVS
τx	KING COUNTY	0	0%		2012	EAVS	4	2018	EAVS	0	4	EAVS
тx	KINNEY COUNTY		0%	4	2014	EAVS	4	2016	Handcount	0	4	EAVS
τx	KLEBERG COUNTY	5	42%	12	2012	EAVS	17	2018	Handcount		18	EAVS
TX	KNOX COUNTY	-3	-50%	6	2012	EAVS	3	2018	Handcount	-3	6	EAVS
тх	LA SALLE COUNTY	2	50%	4	2012	EAVS	6	2018	Handcount	0	6	EAVS
TX	LAMAR COUNTY	-1	-3%	33	2012	EAVS	32	2018	Handcount	0	32	EAVS
тx	LAMB COUNTY	- 3	-33%	9	2012	EAVS	6	2018	Handcount	-6	12	EAVS
TX	LAMPASAS COUNTY	0	0%	5	2012	EAVS	5	2018	Handcount	0	5	EAVS
тх	LAVACA COUNTY	0	0%	19	2012	EAVS	19	2018	Handcount	0	19	EAVS
7X	LEE COUNTY	-7	-47%	15	2012	EAVS	8	2018	Handcount	-7	15	EAVS
tx	LEON COUNTY	0	0%	14	2012	EAVS	14	2018	Handcount	0	14	EAVS
TX	LIBERTY COUNTY	0	0%	30	2012	EAVS	30	2018	Handcount	0	30	EAVS
τx	LIMESTONE COUNTY	0	0%	21	2012	EAVS	21	2018	Handcount	0	21	EAVS
тx	LIPSCOMB COUNTY	0	0%	4	2014	EAVS	4	2018	EAVS	0	4	EAVS
ΤX	LIVE OAK COUNTY		-7%	14	2012	EAVS	13	2018	Handcount	0	13	EAVS
TX	LLANO COUNTY		0%	9	2012	EAVS	9	2018	Handcount	0	9	EAVS
τx	LOVING COUNTY	9	75%	4	2012	EAVS	ì	2018	Handcount	0	1	EAVS
TX	LUBBOCK COUNTY	0	0%	37	2012	EAVS	37	2018	Handcount	4	36	EAVS
ΤX	LYNN COUNTY	0	0%	10	2012	EAVS	10	2018	Handcount	ō	10	EAVS
тх	MADISON COUNTY	1	25%	4	2012	EAVS	5	2018	Handcount	-1	6	EAVS
ťΧ	MARION COUNTY	0	0%	10	2012	EAVS	10	2018	Handcount	0	10	EAVS
тx	MARTIN COUNTY	-1	-33%	3	2012	EAVS	2	2016	EAVS	-5	7	EAVS
τx	MASON COUNTY	0	0%	•	2012	EAVS	4	2018	EAVS	N/A	N/A	N/A
тх	MATAGORDA COUNTY	0	0%	18	2012	EAVS	18	2016	Handcount	0	18	EAVS
ХX	MAVERICK COUNTY	,	-7%	14	2012	EAVS	13	2018	Handcount		14	EAVS

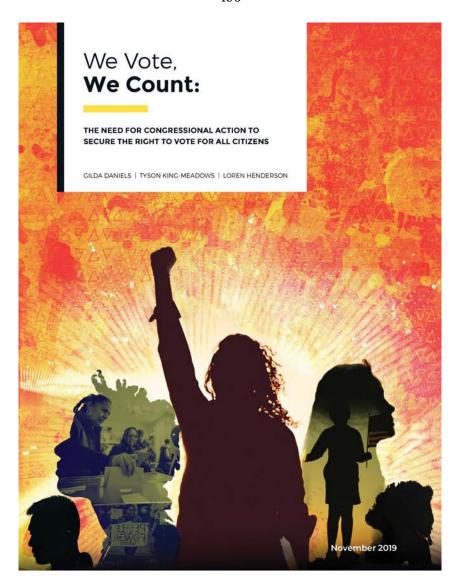
			16	Benchmark Election	Benchmark Election	Benchmark Election	Post-Shelby Election	Post-Shelby Election	Post-Shelby Election		2014 Midterm	2014 Midterm
State	County	Changed	Changed	Count	Year	Source	Count	Year	Source		Count	Source
тx	MCCULLOCH COUNTY	1	14%	7	2012	EAVS	8	2018	Handcount	-1	9	EAVS
₹X	MCLENNAN COUNTY	-30	-51%	59	2012	EAVS	29	2018	Handcount	-11	40	EAVS
тx	MCMULLEN COUNTY	0	0%	4	2012	EAVS	4	2018	Handcount	0	4	EAVS
τx	MEDINA COUNTY	-6	-46%	13	2012	EAVS	,	2018	Handcount	N/A	N/A	N/A
тx	MENARD COUNTY	0	0%	3	2012	EAVS	3	2018	EAVS	0	3	EAVS
τx	MIDLAND COUNTY	0	0%	20	2012	EAVS	20	2018	Handcount	0	20	EAVS
тx	MILAM COUNTY	-3	-27%	11	2012	EAVS	8	2018	Handcount	-3	11	EAVS
тx	MILLS COUNTY	0	0%	7	2012	EAVS	7	2018	Handcount	0	7	EAVS
тx	MITCHELL COUNTY	0	0%	5	2012	EAVS	6	2018	Handcount	0	6	EAVS
тx	MONTAGUE COUNTY	-6	-38%	16	2012	EAVS	10	2018	Handcount	0	10	EAVS
τx	MONTGOMERY COUNTY	8	9%	86	2012	EAVS	94	2018	Handcount	5	89	EAVS
тx	MOORE COUNTY	0	0%	7	2016	Handcount	7	2018	Handcount	N/A	N/A	NA
тx	MORRIS COUNTY	-2	-25%	8	2012	EAVS	6	2018	Handcount	-2	8	EAVS
τx	NACOGDOCHES COUNTY	0	0%	17	2012	EAVS	17	2018	Hendcount	0	17	EAVS
тx	NAVARRO COUNTY	-10	-33%	30	2012	EAVS	20	2018	Handcount	-2	22	EAVS
тx	NEWTON COUNTY	-6	-27%	22	2012	EAVS	16	2018	Handcount	-6	22	EAVS
тx	NOLAN COUNTY	0	0%	9	2012	EAVS	9	2018	Handcount	0	9	EAVS
TX	NUECES COUNTY	-37	-31%	121	2012	EAVS	84	2018	Handcount	-30	114	EAVS
тx	OCHILTREE COUNTY	0	0%	4	2012	EAVS	4	2018	Handcount	-1	5	EAVS
τx	OLDHAM COUNTY	3	-43%	7	2012	EAVS	4	2018	Handcount	.3	7	EAVS
тx	ORANGE COUNTY	-1	-3%	34	2012	EAVS	33	2018	Hendcount	-1	34	EAVS
тx	PALO PINTO COUNTY	-4	-24%	17	2012	EAVS	13	2018	Handcount	-4	17	EAVS
тx	PANOLA COUNTY	-5	-5%	20	2012	EAVS	19	2018	Handcount	-1	20	EAVS
тx	PARKER COUNTY	-3	-7%	44	2012	EAVS	41	2018	Handcount	-4	45	EAVS
тx	PARMER COUNTY	0	0%	9	2016	Handcount	9	2018	Handcount	9	0	EAVS
ΤX	PECOS COUNTY	0	0%	9	2012	EAVS	9	2018	Handcount	0	9	EAVS
7X	POLK COUNTY	0	0%	21	2012	EAVS	21	2018	Handcount	0	21	EAVS
τx	POTTER COUNTY	-8	-33%	24	2012	EAVS	16	2018	Handcount	-8	24	EAVS
TX	PRESIDIO COUNTY	0	0%	2	2012	EAVS	2	2018	Handcount		3	EAVS
TX	RAINS COUNTY	o	0%		2012	EAVS	8	2018	Handcount	WHEAT	9	EAVS

		,		Benchmark Election	Benchmark Election	Election	Post-Shelby Election	Election	Post-Shelby Election	to	2014 Midterm	2014 Midterm
State			Changed	Count	Year	Source	Count	Year	Source		Count	Source
TX	RANDALL COUNTY	9		22	2012	EAVS EAVS	13	2018	Handcount	181818	14 4	EAVS
TX	REAGAN COUNTY REAL COUNTY			5	2012	EAVS	5	2018	Handcoont	0	s	EAVS EAVS
TX		1000	3888	6565636		500000	SESSECTIONS:	(2000)	E44.5554	3000		\$150E
TX	RED RIVER COUNTY	0		19	2014	EAVS	19	2018	EAVS		19	EAVS
TX	REEVES COUNTY	-2		12	2014	EAVS	10	2018	Handcount	50.00	12	EAVS
TX	REFUGIO COUNTY	0		10	2012	EAVS	10.	-	Handcount		10	EAVS
TX	ROBERTS COUNTY	0	100000	2	2012	EAVS	2	2018	EAVS	0	2	EAVS
TX	ROBERTSON COUNTY			14	2012	EAVS	13	-	Handcount	ALCOHOL:	13	EAVS
TX	ROCKWALL COUNTY	0		17	2012	EAVS	17	2018	Handcount	4	12	EAVS
YX	RUNNELS COUNTY	1	Calculation Co.	7	2012	EAVS	8		Handcount	3.55	8	EAVS
TX	RUSK COUNTY	-10	-45%	22	2012	EAVS	12	2018	Handcount	-5	17	EAVS
τx	SABINE COUNTY	0	0%	8	2012	EAVS	8	2018	Handcount	0	8	EAVS
ŦΧ	SAN AUGUSTINE COUNTY	0	0%	11	2012	EAVS	11	2018	Handcount	0	11	EAVS
TX	SAN JACINTO COUNTY	1	-9%	11	2012	EAVS	10	2018	Handcount	•	11	EAVS
τx	SAN PATRICIO COUNTY	9	-53%	17	2012	EAVS	8	2018	Handcount	-9	17	EAVS
TX	SAN SABA COUNTY	•	-25%	4	2012	EAVS	3	2018	EAVS		2	EAVS
TX	SCHLEICHER COUNTY	4	-25%	4	2012	EAVS	3	2018	Handcount	4	4	EAVS
тx	SCURRY COUNTY		-9%	11	2012	EAVS	10	2018	Handcount	•	11	EAV5
tx	SHACKELFORD COUNTY	0	0%	4	2012	EAVS	4	2018	Handcount	N/A	N/A	N/A
тx	SHELBY COUNTY	0	0%	14	2012	EAVS	14	2018	Handcount	0	14	EAVS
тх	SHERMAN COUNTY		0%	4	2014	EAVS	4	2018	Handcount	0	4	EAVS
τx	SMITH COUNTY	-14	-29%	48	2012	EAVS	34	2018	Handcount	-8	42	EAVS
TX	SOMERVELL COUNTY	-4	-80%	5	2012	EAVS	1	2018	Handcount	-3	4	EAVS
т×	STARR COUNTY	4	-9%	11	2016	Handcount	10	2018	Handcount	N/A	N/A	N/A
тx	STEPHENS COUNTY	-4	-17%	6	2012	EAVS	5	2018	Handcount	0	5	EAVS
τx	STERLING COUNTY	0	0%	•	2012	EAVS	4	2018	EAVS	0	4	EAVS
TX	STONEWALL COUNTY	-3	-75%	4	2012	EAVS	1	2018	Handcount	-6	7	EAVS
тx	SUTTON COUNTY	0	0%	4	2012	EAVS	4	2016	Handcount		5	EAVS
тх	SWISHER COUNTY	-1	-20%	5	2012	EAVS	4	2018	Handcount	o	4	EAVS
τx	TARRANT COUNTY	-27	-7%	365	2014	EAVS	338	2018	Handcount	-27	365	EAVS

State	County	# Changed	% Changed	Benchmark Election Count	Benchmerk Election Year	Benchmark Election Source	Post-Shelby Election Count	Post-Shelby Election Year	Post-Shelby Election Source	to		2014 Midterm Source
тx	TAYLOR COUNTY	-14	-41%	34	2012	£AVS	20	2018	Handcount	-3	23	EAVS
TX	TERRELL COUNTY		-50%	2	2012	EAVS	1	2018	Handcount	-4	5	EAVS
τx	TERRY COUNTY	-1	-14%	7	2012	EAVS	6	2018	Handcount	-1	7	EAVS
τx	THROCKMORTON COUNTY	4	-20%	5	2012	EAVS	4	2018	Handcount	.2	6	EAVS
TX	TITUS COUNTY	۰	0%	19	2012	EAVS	19	2018	EAVS	0	19	EAVS
ΥX	TOM GREEN COUNTY	-7	-27%	26	2012	EAVS	19	2018	Handcount	,	18	EAVS
тх	TRAVIS COUNTY	-67	-32%	210	2012	EAVS	143	2018	Handcount	-43	186	EAVS
тх	TRINITY COUNTY	0	0%	20	2012	EAVS	20	2018	Handcount	0	20	EAVS
тx	TYLER COUNTY	0	0%	17	2012	EAVS	17	2018	Handcount	0	17	EAVS
τx	UPSHUR COUNTY	0	0%	16	2012	EAVS	16	2018	Handcount	0	16	EAVS
тx	UPTON COUNTY	0	0%	3	2012	EAVS	3	2018	Handcount	0	3	EAVS
τx	UVALDE COUNTY	O	0%	14	2012	EAVS	14	2018	Handcount	0	14	EAVS
τx	VAL VERDE COUNTY	-3	-18%	17	2012	EAVS	14	2018	Handcount	14	o	EAVS
тх	VAN ZANDT COUNTY	0	0%	18	2012	EAVS	18	2018	Handcount	0	18	EAVS
TX	VICTORIA COUNTY		0%	35	2012	EAVS	35	2016	Handcount	0	35	EAVS
тx	WALKER COUNTY	0	0%	16	2012	EAVS	16	2018	Handcount	0	16	EAVS
τx	WALLER COUNTY	0	0%	19	2012	EAVS	19	2018	Handcount	0	19	EAVS
τx	WARD COUNTY	0	0%	5	2012	EAVS	5	2018	Handcount	-4	9	EAVS
TX	WASHINGTON COUNTY	0	0%	15	2012	EAV5	15	2018	Handcount	0	15	EAVS
τx	WEBB COUNTY	9	15%	60	2012	EAVS	69	2018	Handcount	2	67	EAVS
τx	WHARTON COUNTY	-4	-33%	12	2012	EAVS	8	2018	Handcount		8	EAVS
тx	WHEELER COUNTY	0	0%	10	2012	EAVS	10	2018	Handcount	0	10	EAVS
тx	WICHITA COUNTY	-8	-24%	34	2012	EAVS	26	2018	Handcount	-5	31	EAVS
τx	WILBARGER COUNTY	-2	-33%	6	2012	EAVS	4	2016	Handcount	-3	7	EAVS
тx	WILLACY COUNTY	-1	-9%	11	2012	EAVS	10	2018	Handcount	-1	11	EAVS
TX	WILLIAMSON COUNTY	-27	-31%	86	2012	EAVS	59	2018	Handcount	-3	62	EAVS
тx	WILSON COUNTY	0	0%	16	2012	EAVS	16	2018	Handcount	0	16	EAVS
τx	WINKLER COUNTY	0	0%	5	2012	EAVS	8	2018	Handcount	0	5	EÁVS
тx	WISE COUNTY	1	5%	21	2012	EAVS	22	2016	Hendcount	1	21	EAVS
ΤX	WOOD COUNTY	0	0%	11	2012	EAVS	11	2018	Handcount	-1	12	ÉAVS
TX	YOAKUM COUNTY	0	0%	2	2012	EAVS	2	2018	Handcount	0	2	EAVS
тх	YOUNG COUNTY	4	-44%	9	2012	EAVS	5	2018	Handcount	.4	9	EAVS
TX	ZAPATA COUNTY	0	0%	7	2012	EAVS	7	2018	Handcount	0	7	EAVS
τx	ZAVALA COUNTY	-2	-33%	6	2012	EAVS		2018	EAVS	-3	7	EAVS







ABOUT US

The Racial Equity Anchors Collaborative is a collaborative of nine leading national racial equity anchor organizations generously supported by the W.K. Kellogg Foundation.



Advancement Project National Office

Advancement Project is a next generation, multi-racial civil rights organization. Rooted in the great human rights struggles for equality and justice, we exist to fulfill America's promise of a caring, inclusive and just democracy. We use innovative tools and strategies to strengthen social movements and achieve high impact policy change.



Asian Pacific Islander American Health Forum

APIAHF influences policy, mobilizes communities, and strengthens programs and organizations to improve the health of Asian Americans, Native Hawaiians, and Pacific Islanders.



Dēmos

Dēmos is a dynamic "think-and-do" tank that powers the movement for a just, inclusive, multiracial democracy.



Faith in Action

Faith in Action is a national community organizing network that gives people of faith the tools that they need to fight for justice and work towards a more equitable society.



National Association for the Advancement of Colored People

The mission of the National Association for the Advancement of Colored People (NAACP) is to secure the political, educational, social, and economic equality of rights in order to eliminate race-based discrimination and ensure the health and well-being of all persons.

WE VOTE, WE COUNT



National Congress of American Indians

The National Congress of American Indians, founded in 1944, is the oldest, largest and most representative American Indian and Alaska Native organization serving the broad interests of tribal governments and communities



National Urban League

The National Urban League is a historic civil rights organization dedicated to economic empowerment in order to elevate the standard of living in historically underserved urban communities.



Race Forward

Race Forward catalyzes movement building for racial justice. In partnership with communities, organizations, and sectors, we build strategies to advance racial justice in our policies, institutions, and culture.



UnidosUS

Since 1968, UnidosUS—formerly known as NCLR—has remained a trusted, nonpartisan voice for Latinos. We serve the Hispanic community through our research, policy analysis, and state and national advocacy efforts, as well as in our program work in communities nationwide. And we partner with a national network of nearly 300 affiliates across the country to serve millions of Latinos in the areas of civic engagement, civil rights and immigration, education, workforce and the economy, health, and housing.

ABOUT THE AUTHORS

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Gilda R. Daniels is an Associate Professor at the University of Baltimore School of Law and the Litigation Director for Advancement Project, a multicultural, next generation civil rights organization. She served as a Deputy Chief in the Department of Justice, Civil Rights Division, Voting Section in the Bill Clinton and George W. Bush administrations. Her scholarship focuses on the intersections of race, law, and democracy. Her law review articles have appeared in George Washington University Law Review, Cardozo Law Review, Indiana University Law Review (Indianapolis), Denver Law Review, and New York University Journal of Legislation and Public Policy. Her writings have also been published in the Huffington Post, the Baltimore Sun and various other publications. She has appeared on MSNBC, NPR and other media outlets. Daniels has specialized in voting rights/election law for more than two decades. She has litigated voting rights cases under the Voting Rights Act, including those involving single and multimember districts, language requirements, and compliance with other voting rights statutes, such as the National Voter Registration Act. She has also conducted settlement negotiations and sought legislative remedies. She has testified before U.S. House and Senate Judiciary Committees on voting rights and election law issues. Her book, Uncounted: The Crisis of Voter Suppression in the United States (NYU Press) will be released in January 2020.

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WE VOTE, WE COUNT

From "We the People" to "We Vote, We Count" constitutes a tumultuous journey involving the fundamental right to vote and the massive efforts to deny that right to people of color. The United States has historically limited access to the ballot and enacted laws that disenfranchised people of color. Paradoxically, the country was founded as a democracy, yet forces have constantly sought to suppress the electoral efforts of people of color. The federal government has periodically responded with hard-fought and long-awaited federal voting rights protections that were necessary for democracy to prevail. One of the most effective pieces of legislation was the Voting Rights Act of 1965 (VRA or "the Act"), which provided access to the ballot for people of color and required segregation's forces to seek federal approval of voting changes prior to implementation. Nonetheless, structural racism remains pervasive not just throughout the South but the entire United States. The VRA continues to be necessary for combating widespread voter suppression, which includes, but is not limited to, registration restrictions and penalties against voter registration drives, voter purges, redistricting, reduction in polling places, restrictive voter ID laws, exorbitant fees for formerly incarcerated people to re-register, and proof of citizenship laws. Communities of color, in large scale, bear the brunt of voter suppression. Asian American, Native Hawaiian, Pacific Islander (AANHPI), African American, Hispanic 1 and American Indian communities from sea to shining sea have felt the pain of voter suppression.

Over the past 75 years, rising political participation among voters of color, along with increasing immigration, has motivated states to implement voter suppression measures. This phenomenon is not new, but reflects similar trends occurring during Reconstruction and the pre-Civil War era. Current efforts to diminish and disenfranchise people of color during this and other important times in our country's history are not accidents, but a pervasive and effective strategy to prevent or dissuade people of color from freely participating in the political process. Without question, these attempts and successes to suppress the vote resemble practices of voter suppression during the civil rights era, prior to passage of the Voting Rights Act. A notable blow to federal efforts to curb suppression occurred in 2013, when the United States Supreme Court in Shelby County v. Holder found parts of the VRA unconstitutional. Since Shelby, states and other jurisdictions have implemented modern methods of disenfranchisement that are far-reaching and have real impact on communities of color and their ability to access the franchise.

The Racial Equity Anchor Collaborative (Anchors) embarked on a grassroots effort to lift up the voices of voters of color and their experiences in accessing the right to vote. We conducted "People's Hearings" in select states over several months in 2019 and gathered first-hand accounts of voter suppression through those hearings and through lawsuits to protect voting rights. Witnesses testified to the erosion of equal

access to voting and voter registration and to the ferocity of post-Shelby election-related discrimination in Alabama, Florida, Georgia, North Carolina, North Dakota, Ohio, South Dakota, and Texas. Witnesses attested to, among other things, having to wait in long lines to cast a ballot, being denied bilingual ballot language assistance, having to restore their registration status after an illegal voter purge, and having to stand up against last-minute changes to polling locations and hours of operation. Additionally, voters have had to adjust to increasingly scarce polling places with ever-changing locations, which present a huge burden for those without easy access to transportation and with inflexible work schedules. Witnesses further testified to:

- · An increase in the number voting rights violations since the Shelby decision
- · An increase in the costs and burdens to access the right to vote
- An increase in the costs of litigating Voting Rights Act violations
- · Strong evidence of discrimination in voting, and
- · A need for transparency, notice, and federal protection for the right to vote.

In conducting the People's Hearings, we found that witnesses primarily framed the right to vote in two ways: 1) the right to be regarded and recognized as an eligible voter, and 2) the right to cast a ballot without undue burden.² These frameworks were prevalent themes throughout the stories collected via the congressional and People's Hearings, and on our website. This consistency indicated that, for communities of color, the right to be recognized as an eligible voter and the right to vote without undue burden are the components of the concept of the "right to vote" most severely contested or undermined in the modern-day fight to vote.

This report seeks to elevate the voices of affected communities across the country and provide important insights on the quest to vote. We Vote, We Count addresses three primary issues:

- The impact of voting rights violations and litigation since the landmark Shelby County v. Holder decision;
- Evidence of continued discrimination in voting and the ongoing need for federal protection; and
- 3. The need for increased transparency and protection for the right to vote.

The members of the Racial Equity Anchors Collaborative—Advancement Project, Asian & Pacific Islander American Health Forum, Dēmos, Faith in Action, National

Association for the Advancement of Colored People, National Congress of American Indians, National Urban League, Race Forward, and UnidosUS—are a collaborative dedicated to a voting system that is free and allows all people the right to vote regardless of race, ethnicity or language ability. The stories contained in this report illustrate the need for action to ensure that the right to vote remains a central part of the democratic system. Efforts to destroy the right to vote have escalated since Shelby. However, the determination of these racial equity groups, and many other allies, has also increased to fight for the unfettered right to vote.

The current levels of voter suppression unduly burden this fundamental right and disproportionately disenfranchise voters of color. This report provides testimony from African Americans, Asian Americans, Native Hawaiians, Pacific Islanders, Latinos, and Native Peoples, whose first-hand accounts provide a glance into the inner workings of voter suppression in states across the country. The effort to add the voices of the people to the process has unearthed a symphony of witnesses who are worthy of attention. The people are declaring that We Vote! We Count!



WE VOTE, WE COUNT

The right to vote is fundamental. Yet, significant attacks and restrictions on this right, especially in communities of color, are widening. Long-standing discrimination and suppression tactics have only increased in the aftermath of the Supreme Court decision in Shelby County v. Holder (2013). In that decision, the Court's majority declared unconstitutional the coverage formula (Section 4(b)) that empowered Section 5 of the Voting Rights Act, which allowed for federal oversight of election administration decisions in some states and localities. Emboldened by the removal of oversight, state lawmakers and election administrators enacted and implemented stringent restrictions on access to the ballot which disproportionately disenfranchised voters of color. The combination of these new stringent restrictions and longstanding violations of the right to vote have had a devastating impact on the ability to exercise the right to vote in low-income communities and, in particular, for communities of color.

Many of the laws and procedures emerging after Shelby were rehashed or retooled versions of measures that initially did not survive scrutiny, or which were unlikely to survive scrutiny under pre-Shelby "preclearance," wherein certain states and localities had to present and defend proposed reforms before the Department of Justice or the United States District Court for the District of Columbia. The Shelby decision invalidated the coverage formula outlined in Section 4 of the Voting Rights Act, which determined the jurisdictions that were subject to the federal preclearance regime outlined in Section 5; those jurisdictions would have to pause enactment of proposed reforms until their potential effects could be evaluated. By invalidating the coverage formula and essentially shuttering federal oversight prior to the implementation of voting laws in Section 5 covered jurisdictions, the Shelby decision eliminated the most important protective dimensions of preclearance and reprimanded Congress for failing to modernize the coverage formula in order to capture jurisdictions which the Supreme Court theorized had a more recent record (as of Congress' reauthorization action in 2006) of abetting election-related discrimination. Surprisingly, the Court admitted that discrimination continued to exist in voting; yet, it removed the tools that helped to diminish discrimination. Despite the Supreme Court's decision that the need for federal protection had passed, communities of color continue to experience difficulties exercising their right to vote and accessing the ballot. Indeed, this widespread suppression of voters of color has been a mainstay in our democratic process.

This report begins with a brief history of voting discrimination in America impacting people of color, government action to protect voting rights, and challenges to government action, and discusses the ferocity and speed with which jurisdictions

adopted restrictive voting laws and discriminatory practices after *Shelby*, including restrictive voter ID laws, reductions of in-person registration and voting sites, and illegal voter purges. For the contemporary illustrations of voter suppression, this report draws from a number of sources: testimonies given by affected persons during both the 2019 field hearings and listening sessions conducted by the U.S. House of Representatives' Committee on House Administration Subcommittee on Elections, chaired by Representative Marcia Fudge of Ohio; the 2019 People's Hearings held by the Anchors; recent court cases that document the ongoing discrimination experienced by voters of color and community groups; and stories collected on the *WeVoteWeCount* website.

Likewise, this report summarizes witness testimony to document voter encounters with restrictive voting laws, discriminatory election administration practices, and persistently indifferent state officials who deny voters' claims that laws and practices are racially discriminatory by intent, racially discriminatory by effect, or both. Additionally, the report includes voter accounts of how restrictive voting measures impact the right to vote, how advocacy groups and affected communities have tried (unsuccessfully in most cases) to track suspicious election reforms and to stop constitutional violations through litigation, and how persistent socioeconomic disparities have strengthened secondary barriers to electoral participation. Finally, this report addresses the current state of federal efforts to protect the right to vote, the ongoing need for Congress to address the racial inequities that remain in the voting process, and the solutions proposed by witnesses to thwart continued assaults on the right to vote. Impacted people cry out for a robust and comprehensive solution to long-standing disenfranchisement, both in previously covered jurisdictions under Section 5 of the Voting Rights Act, and in jurisdictions throughout this country where the right to vote is compromised due to race, ethnicity and/or language ability.

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Introduction



The Fight to Vote in the United States

WE VOTE, WE COUNT

The Preamble of the Constitution proclaimed our Founders' intent to redefine governance.³ Instead of power flowing from the top, it would flow from the people of the United States. This phrase, "we the people," confers the hope of inclusion and empowerment in the ability of people to participate freely in the political process. Through voting and political participation, the people could shape the government. This was a noble desire. However, from the outset, the Founding Fathers determined that the linchpin of the democratic process, i.e., the vote, was reserved for only certain inhabitants.

"We the people" still proves to be a revolutionary concept. Those in power have defined the contours of who constitutes "the people." From the founding to the new millennium, those in power construct the political and electoral realities that continue to deny people of color access to the ballot box. Interestingly, the United States Constitution did not originally define who could access the fundamental right to vote. The Founders of this great republic would explicitly craft the three-fifths compromise in an attempt to ensure that the rights of people of color would not equal the rights of whites. With few exceptions, women were largely prohibited from voting, as were men without property, non-white Americans, and indigenous people. The absence of constitutional language protecting the right to vote allowed each state to determine who was eligible to vote, fragmenting the concept of "we the people." Indeed, before the ratification of the Fourteenth Amendment, the Constitution did not explicitly define citizen, merely referring to "Citizen[s] of the United States" and "Citizens of each State." Consequently, enslaved people and indigenous people, on whose homelands the new country was founded, were not considered citizens and were denied the rights given to white men in this country, including the right to vote. It would take a war that divided the country to put the pieces of our democratic government back together into a system that slightly resembled democracy.

After the Civil War, the period of Reconstruction constituted a seismic shift towards inclusion with passage and ratification of the Fourteenth and Fifteenth Amendments. The latter provides that voting rights cannot be denied or abridged based on "race, color, or previous condition of servitude" This essentially granted the right to vote to all male citizens regardless of color or previous condition of servitude, sparking a wave of African American men becoming involved in the political process not only as voters but also as elected officials at the local, state, and national levels. For the first time in American history, some, but not all, people of color could have a voice in how the government was run.

Jim Crow Laws and Disenfranchisement

In the face of a more representative electorate, states across the nation adopted new constitutions and enacted laws that made it harder for people to register to vote. These laws in the Jim Crow era³ were used to directly disenfranchise non-white voters and poor white voters through poll taxes, literacy tests, and grandfather clauses. These disenfranchising devices were implemented in a discriminatory manner at the local level. Effectively, local election administrators were choosing who could register to vote and who could not. Literacy tests, and the like, were used as a means to discriminate against individuals based on their race, religion, or national origin with the express intent of reserving access to the ballot box for white male voters. While Jim Crow laws and the effects of exclusionary election administration were not limited to the South, it was in Southern states that the harmful effects could be seen so acutely. In Louisiana, for example, more than 130,000 black voters had been registered in 1896, but in 1904 only 1,342 Black people were registered to vote due to the systematic targeting of non-white communities through laws, tests, and outright terrorist tactics.6

Notably, indigenous people, who were not considered American citizens as a matter of birth, were still largely excluded from the franchise. The Supreme Court addressed the question of the 14th Amendment's application to Native Americans in 1884, holding that American Indians were "not . . . citizen[s] of the United States under the Fourteenth Amendment."7 Native Americans faced barriers similar to African Americans in the South and Latinos in the Southwest, Native Americans were disenfranchised using a plethora of avenues, including: "[m]any states employed facially neutral measures, such as poll taxes or literacy tests, intended to avoid the proscriptions of the Fifteenth Amendment-techniques mirroring those deployed against African American voters throughout the Jim Crow South. Further, drawing on Native Peoples' 'unique status of citizenship at four levels of government' (federal, state, local, and tribal) and the complex history out of which that status arises, states deployed distinct methods of disenfranchising Native Peoples. Mirroring the Three-Fifths Clause and the Fourteenth Amendment, some states explicitly excluded 'Indians not taxed.' Others passed statutes defining residency to exclude Native Peoples living on reservations. Additionally, some states imposed tribal relation limitations, extending the franchise only to American Indians who had terminated their tribal relations and were deemed sufficiently 'civilized'. Finally, finding support

in Chief Justice Marshall's pronouncement that the relationship of Indians 'to the United States resembles that of a ward to his guardian,' states disenfranchised American Indians on account of their alleged under-guardianship status." §

Around the same period, following the Mexican-American War in 1848, the U.S. had annexed over half of Mexico—what is now the states of Arizona, Colorado, California. New Mexico, Nevada, Utah, and portions of Kansas, Oklahoma, and Wyoming, plus Texas, annexed in 1845. Mexicans who resided in those territories and stayed were allowed to choose U.S. citizenship. Nonetheless, remaining meant they faced violence, and laws and practices similar to those experienced by African American and Native Peoples, which codified segregation, unequal treatment, and exclusion from the political process through poll taxes, literacy and English tests, and outright intimidation.

Laws and practices to keep African Americans from voting had similar impacts on, or were also pursued against, Latino and Asian American communities, especially in states or localities where there was a sizable community of color. The U.S. Commission on Civil Rights heard testimony that Texas has been and continues to serve as the "disenfranchiser in chief" for communities of color, especially African American and Latinx communities. Texas's efforts to disenfranchise people of color extend to the 1800s.9 For some time, "[w]hen Mexican Americans tried to register in one town, they were told the registrar ran out of printed forms. Polling places were located in 'white only' spaces. There were instances where Mexican American ballots were challenged for no cause. There was also evidence in later testimony of Mexican American voters and activists suffering economic punishment, losing their jobs and bank loans, and even suffering violence as a result of running for office."10 Aiming to prevent African Americans from fully participating in the political process, "Texas banned African Americans from voting in 1923 by codifying all-white primaries. The law was not overturned until 1944 in Smith v. Allwright-one of four Texas cases challenging the all-white primaries."11 All-white primaries also excluded Latinos from participating.

Similarly, passage of the Indian Citizenship Act of 1924 did not result in full enfranchisement of Native American voters. Many states continued to deny Native Peoples the right to vote in state and federal elections through the use of poll taxes, literacy tests, and intimidation. ¹² It took nearly 40 years for all 50 states to recognize Native Peoples' right to vote. For years, Arizona denied Native Americans access to the franchise because they were "under guardianship," placing all indigenous Arizonians on par with convicted felons and the severely mentally incompetent. ¹³

In other places, Native Peoples were denied the right to vote unless they could prove they were "civilized" by moving off the reservation and renouncing their tribal ties.¹⁴

Questioning one's citizenship, or outright preventing people from becoming citizens in the first place, also has a long history in this country. Asian American, Native Hawaiian, and Pacific Islanders (AANHPI) were denied the ability to vote for most of the country's existence, as Asian immigrants were barred from becoming citizens via federal policy until 1943 and subject to racial criteria for naturalization until 1952. 15 In fact, many legislative efforts prevented Asian immigrants from even entering the country and becoming citizens.16 Asian immigrants were also prohibited from voting and owning land, as they were legally identified as aliens "ineligible for citizenship." ¹⁷ Further, current U.S. Civil Rights Commissioner Karen Narasaki noted that one of the primary ways to prevent persons in the immigrant community from voting "was simply by not being allowed to be a citizen." 18 She further noted, "[B]oth Native Americans . . . and then also my grandmother, who for over 50 years after she immigrated was not allowed to become a citizen because she came from Japan. So, I think that it's important to note that there are many ways, and ever-inventive ways that unfortunately this country has sought to keep all of its people from being able to vote."19

Today, U.S. Citizen and Immigration Services (USCIS), the government entity that processes applications for citizenship, has been embroiled in controversy over creating delays, backlogs, and other barriers to citizenship that have the effect of delaying new Americans' ability to participate in the voting process. "According to data available from USCIS, as of March 2019, the number of pending citizenship applications at the agency is more than 713,000—double the amount compared to 2015. These delays persist, despite the fact that fewer people are applying for citizenship."20 Changes to the Immigration and Nationality Act in 196521 helped to change "America's racial landscape . . . from a nation in which immigration was carefully controlled by national quotas and roughly 90 percent of immigrants came from Europe to a nation in which immigration rates are booming and about 85 percent came from Latin America and Asia. Today, Latinos are the largest nonwhite group in America."22 While the Latino community is the largest, the Asian community is the fastest growing community of color. In a seminal report, the Pew Research Center found that the Asian American population grew from 1 percent of the U.S. population in 1990 to approximately 6 percent in 2010. Further, the report projects that Asian Americans will increase to almost 10 percent of the U.S. population before 2050.23 These communities, however, have been burdened with the same barriers to the ballot box as other communities of color.

Congressional Efforts to Remove Barriers to the Ballot

More than half a century after the end of Reconstruction, when the states openly and systematically worked to deny people of color their fundamental right to vote, the federal government passed the Civil Rights Act of 1957. The Act established the United States Commission on Civil Rights and the United States Department of Justice, Civil Rights Division. Congress charged the United States Department on Civil Rights with the responsibility of investigating, reporting on, and making recommendations concerning civil rights issues in the United States Similarly, the United States Department of Justice, Civil Rights Division was charged with enforcing federal statutes prohibiting discrimination on the basis of race, color, sex, disability, religion, familial status and national origin. These federal institutions were created to enforce and protect the right to vote at the federal level and showed a growing commitment to protecting the civil rights of people in the United States. With this legislation, Congress took a step towards ensuring the promise of the Reconstruction Amendments.

Although the Civil Rights Act of 1957 helped empower courts to remedy violations of federal voting rights, the Act failed to meaningfully expand the right to vote. In United States v. Atkins,25 the Court found that despite the congressional action, registrars continued to deny African Americans an opportunity to equally participate in the electoral process. Its findings are exemplary of other parts of the country: "Dallas County [Alabama] had a voting-age population of 29,515, of which 14,400 were white persons and 15,115 were Negroes; 8,597 of the whites and 242 of the Negroes were qualified voters. Between January 1952 and December 1960, ten different individuals served as members of the Board of Registrars of Dallas County. Between those dates, 4,500 whites and only 88 Negroes were registered. Only 14 Negroes were registered from June 1954 to December 1960. The district court found that from 1954 to 1961 many unqualified whites were registered, whereas many qualified Negroes were rejected. Although the number of Negro applications which were rejected and the identity of the applicants are not known, testimony showed that among those rejected were two doctors, six college graduates, and two persons with some college education."26

While a step in the right direction, the Civil Rights Act of 1957 did not immediately move the needle on all citizens' ability to register to vote and cast a meaningful ballot. Congress passed additional legislation in 1960 and 1964 that included voting rights provisions, but it used a jurisdiction-by-jurisdiction approach that was costly, time-consuming, and ineffective.²⁷

The Voting Rights Act of 1965

Throughout the early twentieth century, people of color were constantly barred from exercising their right to vote. Passed after the increased visibility of police violently shutting down voter registration efforts and non-violent protests in places like Selma, Alabama, no single piece of legislation was more impactful toward the expansion of the right to vote than the Voting Rights Act of 1965 (VRA). The VRA was designed to enforce the power given to Congress in the Fourteenth and Fifteenth Amendments to the Constitution.

Sections 2 and 5 of the Act. The VRA provided nationwide protections for voting rights. It had two primary enforcement provisions: Section 2 and Section 5. Importantly, Section 2 prohibits the imposition of any voting law that results in discrimination against racial or language minorities.28 Accordingly, it created the ability to challenge any voting standard, practice, or procedure that results in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group.²⁹ A 1980 decision, *Mobile v. Bolden*,³⁰ restricted the reach of Section 2, and made it harder to bring an action challenging voter discrimination,31 because it required a finding of intentional discrimination, which is extremely difficult to prove. In 1982, while amending the VRA, Congress broadened Section 2, so that showing intent was no longer the only avenue towards a remedy. Importantly, President Ronald Reagan referred to the VRA as "the crown jewel of American liberties" when he signed the 1982 extension into law.32 After the 1982 amendment, a plaintiff can now establish a violation under Section 2 if the evidence shows that in the context of the "totality of the circumstance of the local electoral process," the action being challenged has the result of denying a member of a racial or language minority group an equal opportunity to participate in the political process.33 Therefore if a person, community, or organization wishes to bring a Section 2 suit, they must meet these standards, which cost enormous amounts of money and time to establish, and only provide a remedy after the harm has already been committed. Compare this provision to Section 5 of the Act, which required certain jurisdictions to seek federal approval prior to implementation.

The Section 5 preclearance requirement was an even more powerful tool for preventing discrimination in the voting process. Before passage of the Voting Rights Act, all other remedies for voting rights discrimination did not allow for a solution until after the harm was done. The ineffectiveness of piecemeal litigation led in large part to the passage of Section 5 to address the need for a comprehensive remedy to the constantly changing ways that people of color experienced barriers to the franchise. In fact, in South Carolina v. Katzenbach, a case challenging the consti-

tutionality of the Voting Rights Act, the Supreme Court noted that previous voting rights legislation did not go far enough, finding:

In recent years, Congress has repeatedly tried to cope with the problem by facilitating case-by-case litigation against voting discrimination. The Civil Rights Act of 1957 authorized the Attorney General to seek injunctions against public and private interference with the right to vote on racial grounds. Further, the Civil Rights Act of 1960 gave the Attorney General access to local voting records, and authorized courts to register voters in areas of systematic discrimination. Title I of the Civil Rights Act of 1964 expedited the hearing of voting cases before three-judge courts and outlawed some of the tactics used to disqualify Negroes from voting in federal elections.⁵⁰

With the passage of the VRA, specifically the Section 4(b) preclearance formula and the Section 5 preclearance requirement, Congress finally attempted to stop voter discrimination and voter disenfranchisement before it occurred, at least in some jurisdictions. Section 5 of the VRA prohibited jurisdictions covered by Section 4(b) from implementing any change affecting a person's ability to vote without receiving preapproval from the U.S. Attorney General or the United States District Court for the District of Columbia. This part of the Act only applied to jurisdictions encompassed by the Section 4(b) "coverage formula." The coverage formula was originally designed to identify jurisdictions that engaged in systemic voting discrimination in 1965. 37

Essentially, the preclearance requirement of Section 5 stopped the harm to the act of voting before it could happen. In Allen v. State Board of Elections, the Supreme Court determined that the coverage of Section 5 should be given a broad interpretation, meaning even apparently minor or indirect changes to voting rights required approval. For example, if a state subject to the preclearance formula wanted to change a polling place location or other law affecting voting, it was required to submit the potential change for review and wait for approval. In many jurisdictions this prevented harsh voter laws from going into effect, stopped the constant moving of polling locations, and halted the continued shrinking of early voting periods, which all too often disproportionately affected people of color.

<u>Language Access Provisions</u>. The poll taxes, violence and economic intimidation regularly used to disenfranchise African American voters also impacted other people of color. The primary provisions of the VRA, Sections 2 and 5, attempted to address those ills and enabled communities of color in large part to access the

ballot. However, Latino and Asian American voters experienced harassment and denials at the polls due to their language ability. For example, New York State had an English language literacy requirement from 1921 to the mid-1960s, which effectively denied the right to vote for Spanish speaking Puerto Rican-born U.S. citizens residing in the state. Congress addressed this inequity in section 4(e) of the VRA. However, in the 1966 case *Katzenbach v. Morgan*, registered voters in New York City sued to prevent compliance with Section 4(e).³⁹ While the VRA sought to expand the right to vote to more Americans, lawsuits and other actions followed seeking to challenge or overturn these provisions.



In addition to Section 4(e), when Congress reauthorized the VRA in 1975, it added Sections 203 and 208, which required translated election materials in certain states and localities and the ability for voters to choose the person who will assist them. Sec. 203 of the Voting Rights Act provides:

"The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition, they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language . . . In many areas

of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices."

Organizations such as Southwest Voter Registration Education Project, launched in San Antonio, Texas, were instrumental in getting the 1975 Voting Rights Act passed. The new legislation required that voting materials be offered in the language for any language-minority population that was greater than 5 percent in a state or smaller political subdivision. Despite this, Congressional testimony found that Latinos experienced financial and physical retribution for civic engagement.

Section 203 has proven to be monumental in ensuring access to the ballot for persons with limited English proficiency. However, federal intervention and enforcement is sorely needed. For example, poll monitoring by Asian Americans Advancing Justice and Asian American Legal Defense and Education Fund for many decades has shown that noncompliance abounds in Section 203 jurisdictions, with unknowledgeable and unhelpful poll workers, unavailable and/or improperly displayed translated materials, and a general lack of bilingual poll workers, often resulting in Asian American voters being denied requested assistance. 41 Similar problems have also been documented for Latino and Native People voters in previously covered iurisdictions. 42

Other Federal Voting Rights Laws

The VRA succeeded in expanding the franchise and helped those originally locked out of the political process gain access into the electorate. While the Voting Rights Act was tremendous in its impact, additional measures were needed to ensure that citizens were not denied opportunities to register, cast a ballot, or have their ballots properly counted. Indeed, the passage and strong enforcement of the Voting Rights Act did not signal the end of voter disenfranchisement or the end of processes and practices which discouraged citizens from actively and consistently participating in the electoral process. With the urgency to act, Congress passed more laws to ensure all eligible voters retained the right to register to vote and cast their ballots.

National Voter Registration Act of 1993. The National Voter Registration Act of 1993, also known as the Motor Voter Act, requires state governments to allow mail-in voter registration and to provide voter registration opportunities to any eligible person through drivers' license agencies, public assistance agencies, and

disability agencies. It also prohibits states from removing registered voters from the voter rolls unless certain protections are followed. Voting rights organizations were forced into extensive litigation to ensure that states fully comply with the National Voter Registration Act. 44

<u>Uniformed and Overseas Citizens Absentee Voting Act</u>. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) requires that all U.S. states and U.S. colonies allow certain U.S. citizens to register to vote and to vote by absentee ballot in federal elections. The Act does not apply to non-federal elections, although some states and territories also allow citizens covered by the UOCAVA to register and vote in state and local elections as well.

Help America Vote Act of 2002. In the wake of controversy surrounding election results and ballot design in Florida and in other places during the 2000 election cycle, Congress passed the Help America Vote Act (HAVA) of 2002. This law mandates that all states and localities upgrade many aspects of their election procedures, including their voting machines, registration processes, and poll worker training. The specifics of implementation have been left up to each state, which allows for varying interpretations of the federal law.

Challenges to Federal Enfranchisement Laws

Time after time, states and local actors have attempted to retain power by limiting who is included in "we the people." Consequently, the courts have found themselves at the epicenter of the fight to access the franchise. Since the passage of the Voting Rights Act of 1965 and subsequent legislation, there have been many challenges to federal actions that ensure the right to vote for everyone. For example, shortly after its passage, South Carolina v. Katzenbach challenged the constitutionality of the Act. 45 The Supreme Court found that the measures that Congress adopted were necessary to combat the widespread voter suppression and disenfranchisement that existed. 46 Additionally, Katzenbach v. Morgan attempted to challenge Section 4(e) of the VRA as a violation of federalism. ⁴⁷ However, the court found Section 4(e) to be a valid use of Congress' power under the Fourteenth Amendment. 48 This was a major victory for voting rights advocates, reinforcing the notion that Congress does indeed have the power to stop discrimination at the state level. However, Katzenbach did not truly resolve the underlying debate over the degree to which federalism constrained the federal government in the arena of voting rights. The Crawford v. Marion County Election Board case brought the issue of federalism again to the forefront when

Indiana challenged the extent to which the Help America Vote Act constrained state election practices.⁴⁰ The Supreme Court concluded that the voter ID requirement at issue was closely related to Indiana's legitimate state interests in preventing voter fraud.⁵⁰ The decision in *Crawford* opened the door for more states to implement restrictive voter ID laws.

Recent history has proven there is still an urgent need for federal action in the face of systemic and particularized voter discrimination. Additionally, there have been many direct and indirect attacks on the VRA, from passing restrictive voting ID laws at the state level to an increase in policies that disenfranchise formerly incarcerated people. Those opposed to the expansion of voting rights challenged the constitutionality of the VRA in Northwest Austin v. Holder.⁵¹ While in this case the Court declined to rule on the constitutionality of the VRA, it was only a few years later that another case challenging the constitutionality of the VRA made its way to the Court.

The Court in Shelby County v. Holder in 2013 ruled the preclearance formula in Section 4(b) of the VRA to be unconstitutional, not because discriminatory voting practices ceased, but because the formula relied on old data about voter discrimination which could not justify continued federal oversight. Effectively, this decision set aside the preclearance provision for those covered jurisdictions until Congress could pass (and the President could enact) another coverage formula. But since Congress has not acted, the Shelby ruling essentially gave a green light to jurisdictions previously covered by the preclearance formula to start implementing racially discriminatory barriers to voting.

As a result, restrictive voter ID laws, moving polling locations, and other changes that would have been stopped by the preclearance provision have come back with a vengeance to disenfranchise people of color. For example, in less than two months after the decision in *Shelby*, North Carolina enacted HB 589, which instituted a strict ID requirement, curtailed early voting, eliminated same day registration, and eliminated the authority of county boards of elections to keep polls open for an additional hour.⁵² The U.S. Court of Appeals for the Fourth Circuit struck down the law three years later, finding that it targeted "African Americans with almost surgical precision." ⁵³

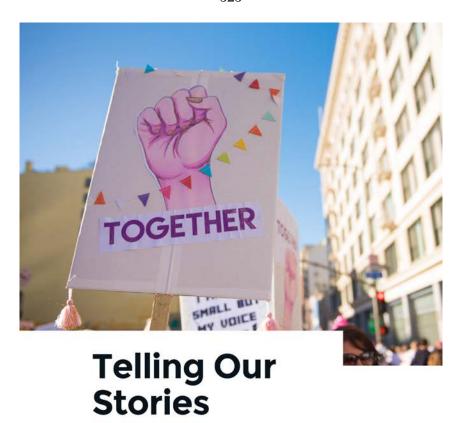
This law would have been subject to the Section 5 preclearance provision of the VRA if jurisdictions in the state had remained covered. The law would not have gone into effect and the people of color in North Carolina would not have had their vote kept from them in the subsequent elections that took place while this law was being litigated. It took three years for the blatantly racist voter ID law in North Carolina to be struck down, which is three years too many when a fundamental right is at stake.

North Carolina has not been the exception in the post-Shelby world we live in; it has become the rule. At least 23 states have enacted newly restrictive statewide voter laws since the Shelby decision.54 We can look to Texas for a snapshot of the impact the VRA has on communities of color. It is important to note that "[t]he VRA also has contributed to increased political representation for Latinos, African-Americans, Asian-Americans and other under-represented minority groups in Texas. For example, in 1973, there were 565 Latino elected officials in the state. By 1984, the number had grown to 1,427. In January 2005, the number had increased to 2,137 Latino elected officials, nearly four times the number in 1973. The growth of Latino elected officials elected to Congress and to the Texas Legislature has been particularly significant. Between 1984 and 2003, the number of Latino Members of Congress doubled from three to six, and the number of state-level elected officials increased from twenty-five to thirty-eight. Additionally, between 1970 and 2001, the number of African-American elected officials in Texas rose from twenty-nine to 475, including two members of Congress (up from zero in 1970). Despite these substantial gains, Latinos and African-Americans continue to be vastly underrepresented at every level of federal, state and local government."55 Texas' failure continues into this millennium, emboldened by its restrictive voter ID law found intentionally discriminatory by several federal courts.56

Texas and North Carolina are by no means the only perpetrators of political disenfranchisement. Many other states are adopting laws that adversely impact people of color's ability to access the ballot. Indeed, states acted with speed and ferocity to enact discriminatory changes to election laws and administrative practices following Shelby. Voters now face an increasingly burdensome and complex array of barries to exercising their constitutional right to vote and to petition the government for a redress of grievances. As a start, Congress must act and fully restore the Voting Rights Act to completely address the modern attacks on voting rights illustrated in this report and protect the inclusive meaning of "we the people."



As a start, Congress must act and fully restore the Voting Rights Act to completely address the modern attacks on voting rights illustrated in this report and protect the inclusive meaning of "we the people."



In this era of voter disenfranchisement, voters of color confront renewed barriers to casting a ballot. Witnesses described a grave situation in twenty-first century America.⁵⁷ Unlike in the past, when states routinely enacted discriminatory laws and procedures to expressly deny all people of color the franchise based on the color of their skin, states in the post-Shelby era are enacting reforms that while "facially" neutral are indeed designed to block voters of color from the ability to exercise the franchise. In other words, while the language of laws affecting voting rights under the Jim Crow era may be different to that used in the post-Shelby era, the impact is the same. Years after enactment of high-profile, far-reaching, bipartisan efforts to protect the right to vote, voters of color confront barriers to electoral participation and empowerment that Americans thought were eliminated or at least kept in check by legislation and judicial precedent. Repeated problems experienced by voters underscore the massive impact of restrictive voting laws and discriminatory actions. Problems reported to the Subcommittee on Elections and during the People's Hearings, as well as in court cases, include restrictive voting ID laws, illegal voter purges, reduced access to the ballot, diminished equal opportunity to elect candidates of choice, and increased costs associated with thwarting constitutional violations. Despite being well aware of these repeated problems experienced by voters, state lawmakers and election administrators in many parts of the country continue to enact new voting rules that create more barriers and decrease access.

Impact of Voting Rights Violations

The new barriers to casting a meaningful ballot put into place after *Shelby* are, in many instances, exact replicas of proposed election reforms that would have been rejected under the Section 5 preclearance procedures. ** In other instances, these new barriers are more aggressive versions of their predecessors.

<u>Voter ID</u>. Photo voter ID laws emerged as a classic example of the new barriers affecting voters. Take, for instance, North Carolina's voter identification law enacted in 2013—what one witness in the field hearings called "the strictest discriminatory photo voter ID law in the nation" and another witness in the field hearings called the "monster voter suppression law" —which might not have survived under preclearance. Witnesses to the field hearings testified that North Carolina lawmakers exploited the *Shelby* decision to pass the controversial law because the state could not successfully defend the law against challenges (levied by civil rights organi-

zations, attorneys in the DOJ Civil Rights Division or by litigants before the U.S. District Court for the District of Columbia) that the law was racially discriminatory in its effect. Witnesses further testified that not only did North Carolina enact its controversial voter ID law, but that the state simultaneously eliminated sam day registration, safeguards to protect out-of-precinct voting, and a week of early voting. Moreover, witnesses also underscored that while these changes diminished the ability of all voters to cast a ballot and to have it properly counted, the effects of these changes were borne disproportionately by poor people and people of color.

Similar stories offered in Alabama and Florida during the People's Hearings high-lighted how voter ID laws created conditions eerily analogous to circumstances in the Jim Crow era. Commissioner Sheila Tyson, for instance, testified that "Alabama passed a strict ID requirement, hurting over 300,000 voters. Did not care that a fourth of those 300,000 people did not have cars. They knew exactly what they were doing when they did it."61 Commissioner Tyson continued, "When they closed down the 31 ID spots, it wasn't just an ID or voter's ID, it was a driver's license. You have to drive four hours to get a driver's license but you can't vote without a driver's license or some type of state ID. But then you turn around and close [the voter ID offices]"62 Other field hearing testimony pointed out that Alabama's closure of "thirty-one DMV offices" could not be separated from issues of race and class.63

Witnesses explained that many of the closed facilities were in primarily black and primarily poor counties and that "confusion among poll workers over what constituted proper identification" added other burdens to voters seeking to comply with the strict voter ID law.64

Other witnesses pointed out that strict voter identification laws enabled Jim Crow era practices to be resurrected outside of the traditional South. In North Dakota, a burdensome voter ID law was enacted that required voters to show photo identification that includes their name, birth date, and residential street address. This law disproportionately impacted Native voters living on reservations where they do not have residential street addresses. Witnesses at the field hearings reported that poll workers were rejecting "lifelong" Native voters that they had known "their entire lives," and whom they were previously permitted to vouch for if questions arose about the identity of the voter. Witnesses characterized the North Dakota voter ID law as carrying an "anti-Indian undertone," objecting to certain forms of identifications in a manner that was "incorrect as a matter of law." Witnesses reported, for example, that poll workers had rejected federal passports and military identifications as inadequate photo-based proof of a voter's identity.*

Complying with voter identification requirements is especially challenging to Native Americans. For those living on reservations in rural areas, it may be difficult to supply proof of residence because they lack street addresses. Additionally, "the number of Native Americans who have electricity, phone lines, or bank accounts to provide the requisite documentation is much less on average than the overall U.S. average." 66 Native voters also report being unduly burdened by the cost of traveling long distances, particularly given the high poverty rates on many reservations, to obtain state identification. In North Dakota, for example, Charles Walker, the Judicial Committee Chairman of the Standing Rock Sioux Tribe, noted that the "[f] amily poverty rate in Sioux County, North Dakota alone is 35.9 percent . . . that the nearest driver's license site is about 40 miles away . . . [and] that a tribal ID is still going to cost money."

Many states do not accept tribal identification as an acceptable form of voter identification. On our *We Vote We Count* website, we received this account from Jenifer Van Schuyver discussing her experience in St. Louis in 2016:

"I was standing in line at my local voting place in St. Louis, taking a selfie and hash tagging #rockthenativevote. . . I'm Native and proud in a city that doesn't see me. Coming from Oklahoma I never had to explain my heritage, how much 'blood' I had, or what the hell a CDIB card was (a complicated relationship with a piece of plastic #smh.) To vote in Missouri you just need your voting slip, or a federal photo ID. I handed her my CDIB card (because I can) and she immediately said, "that's not a real ID." I attempted to argue, the long line behind me became frustrated, and then I pulled out my driver's license. For my local elections last year, I didn't even try to use it. The federal government demands that my particular ethnicity should carry around a card to be proven legit and then people who work for the same government do not even know what it is.

For some Indigenous people this card is the only free piece of plastic with a picture on it. It's the key to recognition in a world that keeps telling us we're less than. I should be free to wander around this whole damn country using it without having to explain it. Especially when it comes time to vote... "67"

Here, as in the past, state actions and persons acting under the auspices of state law can effectively undermine the protections contained in the Fourteenth and Fifteenth Amendments and create often insurmountable barriers to the ballot box.

Method of Election. Enactment of strict voter ID laws was not the only way localities resurrected Jim Crow era laws. Many jurisdictions returned to anachronistic election procedures known to disadvantage voters of color. For example, in Texas, a witness reported that the City of Odessa passed a charter amendment to reinstate at-large voting and to add an at-large seat to the city council, a change that coincided with the growing voting strength of communities of color. The witness juxtaposed the charter amendment reform alongside the gains made by people of color through the city's single-member districts (which Odessa only adopted in response to litigation begun in 1985 that challenged at-large voting), and alongside the "looming" possibility of people of color control over the city. In short, witnesses testified that states were resurrecting rejected reforms from a bygone era and retooling these reforms with changes that appear neutral, yet would have a disproportionate impact on certain communities.

Other witnesses remarked how the Shelby decision emboldened assaults on voters' equal opportunity to elect candidates of their choice. Those assaults include attempts to reinstitute at-large elections in place of districting systems, and attempts to resurrect or institute redistricting schemes that would dilute the voting power of protected groups. Testimony about egregious incidents involving redistricting were especially illustrative. For example, North Dakota State Representative (District 27) Ruth Buffalo testified about Native Peoples' experience with vote dilution. Buffalo said, "Tribal citizens make up 31.8 percent of the district [4] despite there being a sizeable Native American population. Five thousand, six hundred thirty-two members currently live on the Fort Berthold Reservation, with another 3,655 living in close proximity, yet there are no majority Native American districts."71 For Buffalo, the absence of a majority district devalued the Native American community: "If maps were drawn another way, Native Americans could easily support their own district. In fact, the dilution of the Native vote is even more outrageous if you look at the counties. There are six counties that intersect the Fort Berthold Reservation, ensuring no Native American representation among county seats."72

Witnesses provided similar stories from North Carolina about the impact of "packing and cracking" on black electoral empowerment. Patricia Timmons-Goodson, Vice Chair of the United States Commission on Civil Rights, discussed comments from a community member about the ways in which the equal opportunity to vote was hampered. Timmons-Goodson recalled that the community member blamed "racial gerrymandering [which] prevented black political power through 'packing' and 'cracking." Timmons-Goodson testified that the community member recol-

lected that the General Assembly "split" a majority black voting precinct "down the middle," ¹⁴ That precinct was located in North Carolina Agricultural and Technical State University, a historically black college with a deep history of civil rights activism. "One part of the campus was in one district and the other part in another part of the district," recalled the community member. ²⁵

The comments of Rolando Rios, a Texas voting rights attorney in private practice, perhaps best encapsulate witness testimony about what happened in Texas during the 2010-2011 battles over redistricting as potential indicators of problems to come. Rios remarked:

"Also, judicial findings of intentional discrimination have increased since Shelby. A court declaring a state action as intent to discriminate was a rare occurrence in this country. Courts usually attempt to resolve voting litigation without getting into constitutional findings. For example, in 2011, Texas's congressional redistricting plan split the African-American and Hispanic communities in the Dallas/Fort Worth area into seven different Anglo-controlled congressional districts. I have a map here, just to illustrate the point. The area outlined in the dark line is the minority area in the Dallas area. This minority area was split into one, two, three, four, five, six, seven different districts. So, they would be controlled by Anglo districts. This area here, the court called it a lightning bolt that went down here and picked up the Latinos from Tarrant County and put them up in Denton so that they couldn't have the right to vote. And congressional district 30, and we're familiar with congressional district 30, was already 81 percent Latino and African-American. And they increased it to 85 percent. Basically, eviscerating the minority community. This is the kind of outward and aggressive action that is continuing to occur. Finally, in the [Paris] case, which is the congressional redistricting case, the court found that the map drawers acted with an impermissible intent to dilute minority voting strength. The court found intentional packing and cracking against minorities. Every decade since 1970"76

NVRA Compliance. Mimi Marziani, Chairwoman of the Texas Advisory Committee to the U.S. Commission on Civil Rights, testified that "Texas has been refusing... to comply with federal voter registration law, namely the Motor Voter Act." American Contextualized the impact of non-compliance as follows: "By not complying with the National Voter Registration Act when people go online to

update their driver's license, 1.5 million Texans annually are missing an opportunity to register to vote." ** The Chairwoman continued, "This, quite frankly, hits the entire population, but it hits frequent movers even harder because it means that as they move, they are no longer registered at their current address. Frequent movers tend to be poorer and younger, and therefore in Texas they are much more likely to be people of color." ** Accordingly, frequent movers are often registered at addresses that differ from their current address.

Burdening Access to the Right to Vote

Denying voters an opportunity to acquire and to cast a (non-provisional) ballot in the language of their choice had a serious impact on voters' experiences and attitudes toward government in the years since the Shelby decision. For example, Daniel Ortiz, Outreach Director for Policy Matters Ohio, testified that "the closure of polling locations and consolidation of precincts, combined with the lack of reliable transportation options and paid time off from work, make it hard for many vulnerable communities to vote." ⁵⁰ Ortiz also noted, "Since 2012, Ohio has closed more than 300 polling locations across the state: a disproportionate number in urban areas," and that "Cuyahoga County Board of Elections [reports] show in that time period there were closures that eliminated 78 polling locations in Ohio's second largest county." ⁵¹

Similarly, testimony offered at the Ohio People's Hearings placed into context the disproportionate impact of related decisions. Angela Woodson, Political Action Chair for the Cleveland Branch of the NAACP, for example, testified to the following: "It seems like every election cycle, at least two to three voting precincts move. We're noticing this is very consistent in the governor's race as well as the presidential election." ²² Woodson explained that the frequency was particularly troubling because the moves seemed to occur "in the low-income African American wards" and that "... at least two to three precincts will shift to another location." ⁸³

<u>Disability.</u> Woodson also noted that certain polling locations failed to maintain Americans with Disabilities Act (ADA) compliance so that election resources were accessible for individuals who are blind or in wheelchairs.⁸⁴ Witnesses in Alabama mentioned that race and disability often shaped access to the ballot. Scott Douglas, Executive Director of Greater Birmingham Ministries, told the story of habitual

voter Elizabeth Ware, an African American woman on Social Security disability benefits who had lost her non-driving photo ID and who had limited transportation and financial options available in order to obtain a photo ID in compliance with Alabama's strict voter ID law.85 Ware's disability made it painful for her to walk "the five blocks" to the nearest bus stop, and she did not have reliable car transportation.86 Douglas remarked, "The nearest license commission where [Ware] could have gone to get an ID was not in walking distance, and a ride costs 20 bucks, a significant amount for somebody on her income. She was finally able to get a ride to the Board of Registrars where she attempted to get a free voter ID card. However, she was wrongly denied the ID by a staff member who had been improperly trained, and told her that she had had an ID in the past."87 For Douglas, the struggles of Elizabeth Ware fully illustrated how the effects of poverty, location, and disability status extend into the ballot box. Alabama did not provide Ware with a free voter ID despite her economic circumstances or the fact that she previously had an ID. According to Douglas' testimony, "[A]fter becoming a plaintiff in the case, challenging the photo ID law, Ms. Ware's attorneys arranged for the Secretary of State's office mobile unit to visit her home during her deposition. She had never heard of the existence of a mobile unit prior to litigation."88 Coupled with the closure of polling locations and consolidation of precincts, the denial of ballot access to disabled citizens is particularly troubling for voting rights advocates.

Likewise, in Florida, Warnell Vickers, Pastor of New Vision Christian Center Ministries, expressed a similar sentiment about the frightening parallel between today's times and those of a bygone era, as he recounted the disenfranchisement experienced by one of his blind congregants. Vickers noted that his congregant was denied the ability to cast a ballot because of a discrepancy in her signature, which is connected to the need for a particular voter ID in the state. Vickers recalled, "She was participating in a state election and she was doing an absentee ballot. And her absentee ballot was not accepted because they would not accept her signature. Now, she's legally blind, but she's done this before, in terms of absentee ballot. It has been accepted, [in the past] as well."89 Vickers believed that poll workers called attention to the discrepancy to hide their intent to illegally discriminate. He continued, "But in this case, here, I think it was during a primary within the state . . . they said they could not accept her absentee ballot because of her signature. And, again, being legally blind, signature's not going to always be exactly the same. But nonetheless, she submitted the Florida ID, but in the process of time, her vote was not counted for that primary."90 The result, Vickers explained, was a denial of that voter's right

to participate in the primary. He remarked, "And so she wasn't able to vote until the final election. And so, it was unfortunate she was unable to participate as she desired. And after that, she was able to cast her ballot as an absentee voter." 91

Accessing Polling Place Locations. In one form or another, voters of color encountered myriad problems in their attempt to exercise their right to vote. For example, voters were forced to travel long distances to register or to cast a ballot; peripheral and habitual voters found that the state had purged them from the rolls; they were unable to pay for a voter ID; and inadequately trained poll workers thwarted their attempts to vote. Additionally, voters noted infrequently open registration and polling locations, and that election boards did not notify voters about changes to poll locations. Voters of color and low-income individuals are unduly burdened with changing polling locations because they are more likely to move than their counterparts. This leads to confusion, frustration, and the reduced likelihood of voting because of the difficulty in locating one's polling location."

For many who testified, while any one of the aforementioned problems could constitute vote suppression, the combined effects of these circumstances was tantamount to outright vote denial. Witnesses across the country also testified about changing polling locations. In Ohio, for instance, Mike Brickner, Ohio State Director for All Voting is Local, testified that between 2016 and 2018, Cuyahoga County "eliminated 41 polling locations and nearly 16 percent of all precincts changed location.

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Warnell Vickers of Florida, Pastor of New Vision Christian Center Ministries recounts the disenfranchisement experienced by one of his blind congregants. While polling places were reduced county-wide, a majority of black communities were particularly harmed." ⁹² Brickner went on to note the effects on Cleveland, wherein eight of the 17 wards are majority black and comprise between 72 and 98 percent of the population: "Of the city's 45 precincts with polling place changes, the majority, 29, were in black majority wards, while only 16 were in black minority wards."

Witnesses also described confusion surrounding where they should vote, given multiple changes and closures in polling locations. For example, an African American woman who testified anonymously during the Alabama People's Hearings described feeling confused about where her polling location was located. She remarked, "Now the problem that I'm having is where to go vote, where to go register. That's the problem that I'm having." She continued, "I live in Trussville [a suburb of Birmingham]. When all this was going on I was living downtown so I changed. So now I'm in Trussville. So now the problem is where do you go vote. Do you go vote at the First Baptist Church? Do you go to the public library in Springyille? Is it Springfield? Do you go to, do you go vote over there at the little park." Many witnesses, like this African American woman, felt that lawmakers and election officials were deliberately sowing confusion among voters.

For many witnesses, the combination of restrictive photo identification laws, questionable budgetary considerations, and ineffective management had thwarted voting rights. In other words, the financial and logistical burdens associated with voting in the post-Shelby era was especially troublesome for witnesses because it was clear that not all voters were equally impacted: the elderly, African Americans, Latinos, students, people with disabilities, and lower-income voters were all less likely to possess the required forms of identification and resources to overcome the cumulative effects of disparate policies.

For Native voters, the challenge accessing polling places can be extreme. Polling places and early voting locations are generally not established by state election officials on tribal reservations, even in areas where most registered voters live on tribal lands. Distance issues and lack of reliable transportation limit Native access to off-reservation sites, which can be hours away. Many states either have switched to an all vote-by-mail system or impose that system in rural areas with fewer registered voters than urban areas. This creates a variety of problems for Native voters including: (a) non-traditional addresses prevent Native voters from registering or receiving ballots in a timely way; (b) jurisdictions covered by Section 203 do not provide necessary language assistance for mail-in voting; (c) post offices and voting

centers are located off-reservation or have reduced hours; (d) impoverished voters are required to pay for return postage, effectively a poll tax; (e) ballots may not be counted if other materials are not properly completed; and (f) elliminating in-person interactions that are culturally appropriate to Native voters, and the inability to learn if and why a ballot was counted or discarded, leads to greater distrust of government and can dissuade voting in future elections. Similar challenges exist with regard to voter registration. Voter registration sites are also often available only at the county seat or other places off-reservation that are several hours away by vehicle. Some states are moving to online voter registration to save money, but are not taking steps to accommodate Native voters living in rural or isolated areas that frequently lack reliable and affordable broadband and access to computers.

Testifiers decried arguments that state actors were unaware that proposed and implemented electoral reforms would result in disparate access to the ballot. In Alabama, Bernard Simelton, President of the Alabama State Conference of the NAACP, testified that the state's photo ID law "prohibit[s] lots of individuals from being able to vote," and that it "[was] estimated at that particular time there was approximately 118,000 people who were immediately disenfranchised because they didn't have the photo ID required."96 In North Dakota, witness Oliver "OJ" Semans, Co-Director of Four Directions, testified to the extreme differences between Native people and whites in their ability to cast a ballot through early voting. To set the context, he explained that early voting in North Dakota "means that 14 days prior to the election, you can go and you can vote" and that even "[i]f you pass away, your vote still counts."97 Semans continued, "Under this North Dakota law, over 400,000, this is from the census, over 400,000 of the white population has access to vote early, 14 days . . . [that is] two-thirds of the white population."98 By contrast, Semans pointed out, "Indian country, living on a reservation, zero. Now, you want to talk about unequal, that's about as unequal as you're going to get."99 Other North Dakota witnesses drew equally illustrative contrasts.

Increased Litigation Costs

Advocacy groups and negatively affected voters must spend enormous financial and operational resources to track, study, and challenge proposed election reforms in a court of law. That is, in the absence of a Section 4 coverage formula, which gives

operative force to the Section 5 preclearance regime, groups and voters seeking to protect voting rights must rely on Section 2 ("the totality of the circumstance of the local electoral process") to challenge proposed election reforms. 100 Significantly, with Section 2, harm has to take place for litigation to proceed to try to ensure that no additional harm can take place. Section 5 was far more effective at eliminating harm prior to implementation, holding "covered jurisdictions" to "higher standards" before the passing of new laws or policies. The elimination of Section 5 therefore inevitably leads to more harm in certain areas, and places the burden of experiencing, naming or pursuing justice for that harm on the people most adversely affected, particularly communities of color. For the jurisdictions covered by the Section 4 formula, most pre-Shelby challenges were adjudicated via the pre-clearance administrative route, whereby staffers in the DOJ Civil Rights Division duly vetted proposed reforms, weighing comments and evidence provided by states and groups regarding the potential discriminatory effects of proposed reforms. This post-Shelby change is not without significant financial and operational costs. 101 The Shelby decision therefore placed the burden to track, study, and challenge proposed election reforms on the groups most likely to be negatively affected. Of course, not all jurisdictions were affected by the Section 4 coverage formula, and voters in many places have long had the burden of attempting to address voting rights violations through expensive post hoc litigation.

Testifiers underscored the costs associated with this burden. In North Dakota, for example, a field hearing witness for the Native American Rights Fund reminded the Subcommittee that "the story of discrimination and disenfranchisement in North Dakota is not an isolated one" as it pertains to Native people, and that the "tremendous costs of litigating voting rights cases" often means that organizations are unable to respond to requests for assistance. 102 Such was the case in Alabama. A testifier responded to a question about the cost of litigation of a hypothetical Section 2 case in the following fashion: "[W]hen it came to polling place changes it would certainly cost [at] least hundreds of thousands of dollars if it were successful," and a gerrymandering case would cost "millions of dollars," especially if the parameters of the case mirrored prior cases in which affected groups might have to challenge every legislative district in the state's House and Senate. 103 A similar sentiment was expressed by a testifier in North Carolina for Forward Justice. That witness testified that the plaintiff-side costs associated with a Section 2 case was "estimated [to be] more than \$10 million," a figure that excludes "the state's cost and bringing in private counsel to represent the governor as well as the General Assembly."104 Furthermore, while advocacy groups and their partners pay all of the former costs, every state taxpayer in a state facing litigation pays a portion of the latter costs—certainly some subset of those state taxpayers effectively pay twice to defend or to launch a Section 2 challenge, which would have likely been resolved (if not prevented) under the pre-Shelby system.

In Ohio, a testifier noted that the 2016 lawsuit filed by the A. Philip Randolph Institute (APRI) to challenge the state's "Supplemental Process" of removing certain registrants, specifically individuals who failed to vote in a two-year period and who did not send back a return postage prepaid "return card," was not partially resolved until 2018, when the Supreme Court took up the case in Husted v. A. Philip Randolph Institute. 105 The costs associated with APRI's protracted fight with Ohio have been substantial. The Supreme Court majority reversed the Sixth Circuit ruling, which found that Ohio had violated the Failure-to-Vote clause of the National Voter Registration Act (NVRA) of 1993, and the Supreme Court majority rejected evidence amassed by advocacy groups that Ohio's process was not in compliance with the NVRA.106 Substantive disagreements between Ohio and APRI have lasted well into 2019 as the two parties battled over what would constitute a proper final remedy-at a cost to APRI and to taxpayers alike.

The costs associated with the loss of Section 5 were placed on the shoulders of advocacy groups across the country. The Anchors received testimony attesting to a rise in the costs associated with litigating challenges

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A testifier in North Carolina for Forward Justice, responded to a question about the cost of litigation of a hypothetical Section 2 case in the following fashion. to suspected constitutional violations. Witnesses asserted that the post-Shelby landscape had forced affected voters and community organizations to risk financial insolvency and organizational implosion in their efforts to protect the right to vote. For example, attorney James Blackshear of Alabama remarked, "In fact today it is impossible for private counsel like me to bring one of these lawsuits without substantial assistance, financial and legal, from other big law firms." For Blackshear, the need for assistance across multiple dimensions underscored the depth of the problem: The Shelby decision unleashed a horde of discriminatory reforms that touched upon every facet of the election process. Be continued, "I mean, I've got four cases going on right now where I'm local counsel for the NAACP Legal Defense Fund, who's challenging photo ID, for the Campaign Legal Center, who's challenging the felon disenfranchisement center, for the Lawyer's Committee with Civil Rights, who's challenging that we had large election of the Alabama Supreme Court, and the SEIU's Service Employees International Union, challenge imminent. Those organizations are needed to bring the resources just to get the case started." 100

Field hearing testimonies about litigating a Section 2 case in North Dakota, Alabama, and Georgia were equally revealing. Jacqueline De León of the Native American Rights Fund (NARF) remarked, "[I] will pursue every case that I can, but as you [Representative Butterfield] mentioned, they're very expensive." 110 De León continued, "[A]nd it is prohibitively expensive for a small organization like NARF to reach every single instance of discrimination that's happening across this country, and so we really urge you to take action."111 De León also highlighted the paradoxical ways in which media coverage and the outpouring of financial resources both helped and hurt organizations in their battles to challenge discriminatory reforms. De León remarked, "As the cameras move on from North Dakota, so do the resources that made the herculean response to the ID law and this last election possible."112 In Alabama, Nancy Abudu, Deputy Legal Director of the Southern Poverty Law Center, remarked that it would "cost absolutely millions of dollars to bring [a lawsuit] today."113 Abudu also described why organizations and affected voters might be risk averse about financing and initiating litigation. "It forces us into not only spending that much money, but also into a venue through the federal courts, unfortunately, that are becoming more and more hostile."114

In Georgia, Stacey Abrams, former minority leader in the Georgia House of Representatives and 2018 Democratic gubernatorial candidate, highlighted the inadequacy of Section 2 to protect voting rights because it largely relies on establishing a post-action record of discrimination. "Section 2 essentially says that a bad action can be used as a predicate to argue that if a new bad action cannot be taken.

The challenge there is that you have to have someone disenfranchised before you could fight to make certain that someone else isn't disenfranchised," she explained.115 "But that means that someone lost their right to vote. That means that communities were disallowed from actually having a voice in their community," she remarked. 116 Abrams also directly compared the retrospective nature of Section 2 in a post-Shelby era to the prophylactic nature of a pre-Shelby era coverage formula and preclearance regime. She noted the following: "The beauty of Section 5 said that before you commit harm you had to be held to a higher standard. Section 2 says once harm has been committed you have the ability to argue that it shouldn't be repeated. And therefore, it is an insufficient standard for a nation that is grounded in the notion of democracy, and representative democracy is the way to push forward our thoughts and ideas as citizens."117 Given the extensive and costly nature of Section 2 litigation, not to mention the retrospective nature of a Section 2 claim, no organization or community group can launch or sustain a "herculean response" to every discriminatory reform. It can take months for a court to act on behalf of challengers (e.g., for a court to issue preliminary injunctions that pause implementation of an enacted reform), and it can take months for litigants to settle on a permanent relief plan.118 And, in the absence of action by a court, disenfranchisement reigns.

Moreover, witness after witness underscored that it is risky for communities to focus solely or exclusively on litigation in their efforts to combat disenfranchisement. Witnesses like Dr. Reverend Barber, a member of the National Board of the NAACP and President Emeritus of the North Carolina NAACP, testified that affected groups and their allies needed to use multi-pronged approaches that were sustainable over time. 119 To illustrate, Barber testified that advocacy groups in North Carolina tried unsuccessfully to defeat the stringent voter ID bill while it was being considered in the General Assembly, and that advocacy groups filed suit "before the ink was dry" once the bill became law.120 Barber also noted that sustained battles take an emotional, financial, and operational toll on their combatants: "We have been battling for 2,023 days today, five years, nine months and 24 days since the Voting Rights Act was gutted in 2013. This monster voter suppression law was the worst of its kind after Shelby in the nation, and it was only possible because . . . the preclearance protection was no longer in place."121 Barber explained, "It, in fact, has been the worst we have seen since Jim Crow."122 He went on, "We heard the lawyer who was leading the effort say in court that retrogression was okay now that the Voting Rights Act was no longer in place."123 Testimony by Barber and others confirmed that affected voters in North Carolina had to wait a long time until their

'herculean' efforts yielded results.'24 On both scores, Barber explained, "Without the voting rights preclearance, it took us years of organizing and fighting. Finally, in July 2016, a unanimous panel of the U.S. Court of Appeals, the Fourth Circuit, held that the law, '[which] targeted African Americans with almost surgical precision', was, in fact, unconstitutional." 125 That litigants challenging the North Carolina law eventually prevailed did not mean that they recouped all of the financial, emotional, and logistical costs they had incurred on their journey to defend voting rights.

Representative democracy is poorly served by a post-Shelby system whereby our most vulnerable portions of the electorate—those citizens more likely to suffer the effects of the diminished right to vote—are burdened with the responsibility to locate, monitor, and finance litigation aimed at stopping potential constitutional violations. Absent a systematic way of tracking and reviewing proposed election reforms and of monitoring the implementation of approved election reforms, groups must protect voting rights through a costly litigation process which creates circumstances that democracy can ill afford.

Additionally, the burden of time (three years or more for litigation after harm has happened, rather than 60 days for federal approval or disapproval) and money for litigation has shifted, falling almost entirely on communities most affected by restrictive voting laws. These are far more, and far more prolonged, litigation processes because a post-Shelby environment enables deeply repressive voting laws to be enacted and repressive practices to unfold before challenges can even be brought forward, let alone a push for reform. Accordingly, many more resources are needed for people of color to raise concerns about voting laws and practices or to pursue litigation, including resourcing collaborations with numerous organizations. As a result, voters of color, in particular, face an immediate and steep increase in barriers to the polls.

In conclusion, witnesses emphasized three primary issues when addressing how Shelby is shaping the current state of voting rights litigation. First, litigation to thwart constitutional violations has become more time-consuming, and more costly to or ganizations and affected voters. Absent preclearance, groups with relatively limited human capital and financial resources must compete with more heavily resourced state actors and allies in their pursuit of justice. Second, affected communities must now attack a very different default position than one prior to Shelby. They have to prove that the state's proposed reforms have discriminatory effects even if they agree that the state's proposed reforms do not discriminate. Third, the sheer volume and complexity of cases needed to effectively litigate challenges to new restrictive laws

was quite concerning to those who wanted to protect voting rights for poor communities and voters of color. The financial and logistical costs required organizations to remain both vigilant and well-resourced for what would likely be a protracted battle. Moreover, victories were rarely permanent: Even when a proposed piece of discriminatory legislation was rejected or struck down, lawmakers remained free to put forth another piece of discriminatory legislation. Simply put, the post-Shelby landscape, witnesses contended, places the burden of proof on the communities least able to afford the organizational, evidentiary, and financial burden of prosecuting constitutional violations.



Complying with voter identification requirements is especially challenging to Native Americans...Many states do not accept tribal identification as an acceptable form of voter identification.



The Continuing Need for Federal Protection

Communities of color have been engaged in a perpetual fight to secure and safeguard their right to vote since the founding of our democracy. Because one of the most effective tools in this fight was gutted in the Shelby decision, the landscape of American election law has rapidly altered. In 2016, the first presidential election after Shelby, 14 states imposed new voting restrictions, including Alabama, Ohio, and Texas. By 2019, Arizona, Arkansas, Indiana, Montana, New Hampshire, North Carolina, Tennessee, and Wisconsin had enacted new restrictions.126 These restrictive voting bills worked alongside new and existing administrative practices to further shape the composition of the electorate. Many of these new measures were either exact replicas of proposed election reforms that would have been rejected under the Section 5 preclearance procedure, or were more aggressive versions of their predecessors. Without the strong protections of Section 5 of the Voting Rights Act, restrictive ID laws and voter purge initiatives in Georgia, North Carolina, North Dakota, Ohio, and Texas were proposed and signed into law. According to the Brennan Center for Justice, between 2012 and 2016, formerly covered "jurisdictions no longer subject to federal preclearance had purge rates significantly higher than jurisdictions that did not have it in 2013."127 In sum, Shelby emboldened and in some cases enabled states to move with speed and impunity to implement barriers that circumscribed voters' access to the ballot and that diminished citizens' ability to petition the government for a redress of grievances.

Co-Director of Forward Justice Caitlin Swain testified how quickly and deliberately North Carolina implemented discriminatory changes in the wake of the Shelby decision. Swain remarked, "As soon as protections were lifted . . . the General Assembly of North Carolina enacted the most comprehensive voter suppression law seen since the Jim Crow era, targeting African American access to the ballot with what the Court of Appeals has termed surgical precision." ¹²⁸ Swain also underscored the scope and range of such policies, explaining that North Carolina eliminated "same day registration, a week of early voting, the safeguard of out-of-precinct voting, and pre-registration of 16 and 17 year-old(s) . . . [and] enacting one of the strictest discriminatory photo voter ID laws in the nation." ¹²⁹ Below, the report provides a snapshot of witness testimony about Jim Crow 2.0 state reforms enacted following Shelby to further highlight the scope, magnitude, precision, and impact of these reforms.

Vetting Voting Changes

Witnesses testified that many post-Shelby voting changes they believed to be discriminatory (or that were eventually deemed to be discriminatory by a court of law) would have been blocked by an operative Section 5. In that regard, the actions taken by the General Assembly of North Carolina were not atypical. According to Matthew McCarthy of the ACLU of Texas, for example, the state's voter ID laws placed a hefty burden on citizens.130 McCarthy testified that the law required that voters "present one of seven approved forms of government issued identification before being allowed to vote" and that voters "attest under penalty of perjury that there [was] a reasonable impediment to having one of those forms of approved IDs."131 In characterizing the judiciary's findings that Texas had unfairly circumscribed access to the ballot, McCarthy noted, "The voter ID laws were the subject of extensive litigation and were found by three district courts to have disproportionately burdened voters of color. And that was because of evidence that minorities are generally less likely to have one of the forms of approved ID, and also less able to obtain one of those forms of approved ID given the cost in terms of time and money in getting one. However, the current form of the ID law was ultimately approved by the Fifth Circuit Court of Appeals and was in place in time for the midterm elections last year." 132 The parallel between voter ID laws, which affect

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McCarthy testified that the law required that voters "present one of seven approved forms of government issued identification before being allowed to vote"

Matthew McCarthy of the ACLU

who appears on registration lists, and post-enrollment procedures, which affect who gets removed from registration lists, cannot be overstated. Noting this, George Corbel remarked, "Well, in some senses the voter ID law is a purge because what we're doing is we're essentially doing away with voter registration and changing it to driver's licenses or Texas IDS." ^{13.3} Corbel continued, "Now, it doesn't sound like that's a big deal, but an awful lot of people have parking tickets or minor violations. They don't want to go anywhere near the DPS because they're going to get arrested and they're going to spend time in jail. And so, we're essentially purging" citizens duly entitled to cast a ballot. ^{13.4}

Lawmakers in Alabama, like in North Carolina, also waited until the most opportune moment to strike at the right to vote. Alabama, for instance, enforced a photo ID law the state had initially enacted in 2011 but which was held in abeyance. According to Abudu, this was done deliberately to avoid likely denial under Section 5 preclearance. Abudu explained, "So the NAACP and the ministries that Mr. Douglas [Scott Douglas, Executive Director of Greater Birmingham Ministries] represents filed a lawsuit challenging the law as discriminatory based on their estimate that over 100,000 people, registered voters in Alabama, lack the necessary ID. So you're talking about almost 5 percent of the registered voters in the state, who simply because of this photo ID law, essentially are losing their right to vote." 135 Jenny Carroll, Professor of Law at the University of Alabama School of Law, put the point about post-Shelby regulations on voting more strongly, asserting that "[W] hile these regulations are facially neutral, they raise real concerns about the opportunity of enfranchisement among the very populations that the Voting Rights Act was designed to protect."136 Under Jim Crow 2.0, policies that appeared racially neutral often facilitated discriminatory effects. Carroll remarked, "The days of a sheriff standing in the doorway of the polling place may be a thing of the past. But the current voting regulations may produce the same effect on communities of color and poor populations in our state. The method may be softer, more subtle, but the results are exactly the same."137

Diminished Ability to Elect Candidates of Choice

Witnesses also testified about the ability of post-Shelby discriminatory reforms to limit the reach of pre-Shelby black political empowerment levels. Nancy Abudu, for instance, testified that white Alabama lawmakers used voter ID laws

to undermine black elected officials. She remarked, "One of the mainstay senators who worked for over a decade as far as we can tell, to pass this voter ID law, was also quoted in media outlets as saying that his 'photo ID law would undermine Alabama's black power structure.' That is a quote, and that, 'The absence of a voter ID law, and again this is a quote, 'benefits black elected officials."138 Witnesses in Texas draw similar connections between electoral reforms and the electoral power of communities of color. Attorney Chad Dunn, for example, described what he witnessed in the Beaumont School district. After deliberately oversimplifying details to set the context, Dunn stated, "[E]ssentially the district has been majority black in voting population since the 1980s, but it wasn't an integrated school district until 1985, under Brown v. Board of Education. And it ultimately took a series of court decisions until the 1990s to give blacks legitimate right to vote for their school board."139 Dunn continued, "A majority of blacks served in that school board before Shelby County came down, but white citizens had managed to get a ballot initiative to force at-large voting in the school district, and the state courts had ordered this school district to go to parcel at-large voting. This is what I have the results of putting the whites in charge of the school district despite it being

Dunn next explained why preclearance mattered for black political representation. "A federal court in Washington, DC under Section 5 of the Voting Rights Act, and in a case I was involved in and joined that change, it made the school district stay as it had been ordered by previous federal courts. After Shelby all that was undone. And as we sit here today, the school board in Beaumont still does not have, in my opinion, an elected board that represents its community." ¹⁴¹ Speaking to what happened in Beaumont and why it mattered, George Corbel explained that "[t]he Texas Education Agency (TEA) has the right to seize school districts and displace elected officials, take over school districts if they feel that there's a problem." ¹⁴² Corbel continued, "Now under section 5, we almost completely prevented that from happening. Since the doing away with section 5, the TEA has been seizing these school districts, and Beaumont was one of them. They seized the school districts, and you end up, Beaumont had a black superintendent, black board members and now it's controlled by the whites." ¹⁴³

Rolando Rios, a Texas voting rights attorney in private practice, successfully sued the city of Odessa in 1985 to challenge at-large elections where victory resulted in the creation of single-member districts. Rios explained that "[T]his year, as the community became stronger and minority control was looming, the city passed a charter amendment reinstating at-large voting. . . . The voter 1D law was passed after

Shelby, and after years of litigation, was declared unconstitutional by the federal courts. This law would never have been passed in the first place by Texas before Shelby," 144

North Carolina Senate Minority Leader and former Speaker of the North Carolina House of Representatives Dan Blue made a similar point in his testimony. He remarked, "[I]n 1978, North Carolina had one of the lowest black participating voting rates. Over the next 30 years by 2008, North Carolina had one of the highest black participation rates in elections, and that was because of a series of laws that were enacted over that 30-year period to encourage voting and to remove the obstacles to minority voting, and we were successful at it." 145 Blue continued, "One of the things that I've heard talked about earlier today was the monster law in 2013. I lived through it, I was in the Senate at the time, and it was designed to totally reverse the history that I just related to you. It was aimed at all of those measures that we had taken over the previous 30 years to ensure participation and access to the ballot for all of the citizens of this state." 146

Inability to Combat Voting Changes

Throughout the People's Hearings, we observed testimony regarding other examples of jurisdictions curtailing communities of color political empowerment that did not involve manipulating the composition of the electorate through gerrymandering. Chad Dunn, a civil rights attorney from Texas, offered the following testimony: "In Jasper, the community decided to vote at large to remove a districted office. So, imagine for example, all citizens of the United States could vote to remove one of you. And they were successful because the city was majority white, a black city council person was removed." ¹⁴² Dunn blamed *Shelby*: "Because the Voting Rights Act has been so harmed by the Supreme Court and other judicial decisions, there was nothing we were able to do with that. This city council person was removed." ¹⁴⁸ This type of "third generation" assault on the right to vote, more specifically the equal opportunity to elect candidates of choice, is far from unprecedented. ¹⁴⁹

What is unprecedented is the absence of preclearance and a coverage formula. While the outward signs of segregation were not apparent, witnesses tacitly drew parallels between the discretion exercised by election administrators in the Jim Crow era and by election administrators in the current post-Shelby era. For example, witnesses testified about the dilatory effects of voter ID laws in North and South

Dakota as being magnified by the behavior of poll workers. These workers were either intentionally discriminatory or were unintentionally incompetent.

Inadequate training for poll workers leads to mishandled polling sites, which often disproportionately affects marginalized communities. Sites run according to the discrimination or bias of the worker rather than trained protocols designed to eliminate unnecessary burdens or disenfranchisement of voters. Jacqueline De León, staff attorney for the Native American Rights Fund (NARF), testified that the organization received "a request for assistance [in 2014] regarding Native people in North Dakota that were being turned away from the polls."150 The NARF investigation found that "veterans, school teachers, elders, and other lifelong voters were being rejected by poll workers that had known these individuals their entire lives."151 The investigation was a costly but worthwhile investment of the organization's financial and personnel resources. "NARF decided that this was a case worth investing our limited resources. I mention resources because the burden of proof in Voting Rights Act and constitutional cases alleging voter discrimination is extremely high. Which means that in order to prevail in these cases, litigators must invest substantial resources. And unfortunately, NARF cannot address every injustice facing Native American voters today."152

Lack of Notice

Prior to Shelby, community organizations would have rightly but not exclusively depended upon the preclearance regime to facilitate tracking and notice of proposed reforms. Witnesses, however, testified that election administrators used their discretion to deny communities adequate notice about proposed voting changes. Specifically, witnesses attested to three things on this score. First, Shelby emboldened administrators to take or to reclaim a hostile posture toward communities possibly affected by proposed reforms. Second, community groups found it nearly impossible to track proposed changes. Third, affected voters found elected officials to be less transparent about proposed changes and unconcerned about the dilatory effects of enacted changes. In other words, as an integrated management device, Section 4 and Section 5 helped community groups hold governments accountable in the face of the sheer number, complexity, and diversity of proposed election reforms. Not only was the burden of proof placed on the covered jurisdiction rather than on voters, the notification of a proposed change itself (as well

as documentation of the resulting DOJ action or court ruling) acted as a signal to other jurisdictions about what was and what was not permissible.

Following Shelby, voters in large states, like Texas, were especially disadvantaged in their efforts to track proposed changes. George Corbel put it this way: "One of the advantages of Section 5 was that we got noticed that all this stuff was going on. The Department of Justice would publish a notice, I think weekly, of all the submissions they had gotten. So, we could look at and see where these polling place changes were made. Now none of that's taking place. And you know how big Texas is, there's no way that we can be in every one of our 254 counties, and except under Section 5 when we got this early notice."

Shelby dramatically shifted the "information costs" associated with learning about proposed electoral reforms and knowing what jurisdictions were doing to undermine the right to vote. For every proposed election reform, there was an underlying price for voter inaction and inattention. Chad Dunn encapsulated it this way: "So there's redistricting, there's voter registration, there's countless polling place changes, and it's scary to think, but there are scores of other changes we don't even know about that can't be done or dealt with because of the injury to the Section 5."154 Testimony by Patricia Timmons-Goodson, Vice Chair of the U.S. Commission on Civil Rights, painted an even starker picture: "From the Civil Rights Commission's perspective, it certainly has made tracking more difficult. At one point, there was a single source or a



"So there's redistricting, there's voter registration, there's countless polling place changes, and it's scary to think, but there are scores of other changes we don't even know about that can't be done or dealt with because of the injury to the Section 5."

Chad Dunn, Testimony at the Texas People's Hearing (2019) limited number of places that we could go to get the information, but when it's left to individual citizens and organizations to do the filing, it makes it far more difficult to track them." 158 However, requiring a state to provide notice to potentially affected voters does not mean that those voters will actually receive notice if they are not attentive. Put better, certain voters may be less attentive to information about proposed reforms precisely because their communal and personal socioeconomic circumstances make them prioritize other information. In sum, in the aftermath of Shelby, not only does the burden to track, monitor, and evaluate proposed election reforms disproportionately fall on those citizens more likely to suffer the effects of diminished right to vote, the content and ferociousness of those election reforms eerily parallel previously rejected proposals reminiscent of a so-called bygone Jim Crow era.

Increased Barriers to the Ballot

Curtailed access to the ballot was the dominant theme in hearings across the country. Scores of witnesses affirmed that state officials deny voters opportunities to register, to acquire a ballot, to cast a ballot (especially to cast a non-provisional ballot), to receive proper notice about changes to polling locations, and to receive appropriate language assistance. Witnesses also testified about voter experiences with state purge procedures and with attempting to secure re-enrollment after an illegal purge.

Many witnesses confirmed that voters were finding it difficult to deal with frequent changes to their polling locations, especially when those changes seemingly came without notice or when those changes were communicated in a language other than the one most preferred by the voter. In Ohio, Kimlee Sureemee, Senior Manager of Policy, Advocacy, and Development Programing at Asian Services in Action, testified that frequent changes were a "huge barrier" facing the Asian community, particularly since such changes were "not translated to our community members, and also they're not communicated on a regular basis to community members when there are changes to polling locations" 156 Speaking from personal experience, Sureemee remarked, "For myself as an example, over the past three years I've had a change to my polling location every year when it came to the general election." 157 And, Sureemee continued, "I live in Lakewood and one year it was at a school, one year it was in a different gym/school, and this last year I had a new polling location

as well. Changes in polling location is a huge barrier for communities, especially if they're limited English proficient community members as well."158

Testifiers also described the ways in which the "anti-election fraud rhetoric" had curtailed access to the ballot in the post-Shelby era.¹5° North Carolina witness Dan Blue, for instance, asserted that state and local officials created "voter ID law[s] claiming that it's going to prevent voter fraud and nothing has gone on in a discussion of what we do about voter harvesting."¹¹60 Dan asserted, "The real cost of voter ID in the state, and we made this argument, is that this legislation that was enacted last year, this new amendment to our state constitution puts a tremendous burden on the state and local boards of election."¹6¹ Blue continued, "Without the funding to back up these obligations, then it makes access to the ballot even less likely. You've heard the testimony of the distances that people travel, but as importantly, it will cost \$17 million to implement a photo ID requirement without any funding having been provided specifically for that."¹¹6² For some witnesses, state lawmakers had proffered claims about fighting voter fraud and promoting ballot security to hide their intentions to erect unconstitutional barriers to the ballot.

Anti-Fraud Hoax. That the public can often be confused by the content of anti-election fraud rhetoric and can often be moved to support or to oppose discriminatory election reforms was not lost on witnesses, especially those witnesses who underscored that poll workers are drawn from the public. For example, in Texas, field hearing witness Matthew McCarthy, of the ACLU of Texas, testified that poll worker confusion undermined voter access to the ballot.163 McCarthy testified, "As part of a coalition [involving the ACLU of Texas and the Texas Civil Rights Project] during the election last year to protect the right of Texans to vote . . . we had call centers, staffed by trained volunteer attorneys, taking calls from around the state, and we also had a number of field volunteers working at polling locations, assisting voters with queries."164 That process, McCarthy explained, revealed "a significant amount of confusion and misinformation about the voter ID requirements."165 For example, McCarthy noted that the coalition "heard reports of voters attending polling locations in rural Texas where election officials posted a sign saying, 'Must have driver's license to vote" and that the coalition heard reports from "large metro areas [where] poll workers [were] telling folks who were lining up to vote, that you needed to have photo ID or you wouldn't be permitted to vote."166 According to McCarthy, lawmakers should consider the enormous ripple effect that confusion and misinformation can have on the willingness of voters to cast a ballot vote. 167 He explained, "[What I described earlier] is plainly incorrect under the law and while we were able to address it, you do wonder how many voters saw that sign, or were

given that information and simply turned away and didn't exercise their right to vote." 168 And because context matters in all situations, McCarthy pointed out, "And that's a particular concern in polling locations where there were long lines. People aren't going to line up and vote if they think their vote won't be counted." 169

Seemingly speaking to the aforementioned ripple effect, Dan Blue asserted, "Now, voter suppression is also occurring through voter confusion." ¹⁷⁰ Blue testified that state entities seemed unconcerned about voter confusion. ¹⁷¹ Blue remarked, "[T] he recent bill put the unnecessary burden on voters, mandating that they must comply with new photo ID requirements at the polls in just five months from now. Five months from now these are our local elections, and so we have a requirement for voter ID without any implementation for providing it. Of the 850 universities, colleges, government agencies and tribes, only 72 applied for their voter identification requirements to be approved." ¹⁷²

Language Assistance. That poll locations need additional bilingual ballot resources, including personnel, to assist limited-English proficient voters was echoed by Winnie Tang, President for Asian Services, during testimony at the $Florida\ People's\ Hearing.\ Tang\ praised\ certain\ organizations\ attempting\ to\ minimize$ the negative impact on affected voters. Tang explained, "So, what we are doing in the community to have translating. We're in Chinese, then we bring the voter to interpreter in Chinese to have them to read it to vote so they can feel their power, so they will not feel reluctance in their own way. And why we are doing that, because what happens if you don't vote? It doesn't mean that you did not vote. If you don't vote, that means you're voting something that you don't support, doesn't support you. So, we want to make sure everybody to know about the vote is very important."173 Tang and other witnesses understood that a reduction in the number, training, or acumen of poll workers meant a reduction in access to the ballot. Ohio witness Sureemee further put the reduction into context when discussing "a bill that was introduced in 2017 to drop poll workers."174 Sureemee explained that "this is one of our major concerns," and "we don't want to see this bill introduced again." 175 Sureemee also testified to the following:

"Poll worker reductions is another big barrier to our community. We rely on our poll workers because we are looking for bilingual poll workers in areas where our community members are turning out to vote. In particular, here in the Asia town area, a couple of blocks from here, we rely and make sure that we have bilingual poll workers in those two polling locations for our Chinese community voters. With reductions to poll

workers and reductions to access to poll workers at these polling locations, it makes it challenging, and it makes the lines longer." 176

Further, Hillary Lee spoke at the Georgia People's Hearings about her challenges in the 2018 election in Atlanta, Georgia. She reported that "[o]ne issue that I saw was language access at the ballot. And so we met an elderly Korean man who approached our organization asking for help with interpretation at the polls because he was an American, is an American citizen, but doesn't speak English fluently, and he and his wife both identify as limited English proficient. And so they needed someone who spoke Korean to help them vote in an informed ballot. And so they reached out to us and a staff member from our organization went to the polls with them and actually faced a lot of confusion on the polls." He recalled further that "it actually delayed their right to vote by probably 15-20 minutes, maybe longer, while the poll worker called the poll manager have to call other supervisors to clarify whether or not our staff member could even help him vote. And so all of this burden really raised the question for us who's actually allowed to interpret for LEP voters, limited English proficient voters at the polls. And what we found out was there was actually a really old law on the books in Georgia that said that in state and local elections, your interpreter has to be someone who's related to you, like directly related to you or a registered voter in your same precinct, which is pretty narrow. And it's very, very narrow compared to the federal voting rights act, which says that anyone can help you as an interpreter in federal elections except for a representative of your employer

Another speaker at the Georgia People's Hearing provided an account. "I think seeing the language access issues is particularly hard for me because my parents are immigrants from China and both of them had to learn English as a second language. And both of them still today struggle with English. And my mom is actually really insecure about her English and always tries to practice speeches with me and then ask me to review papers and stuff because it just scares her to have to be in front of someone like a group of people and speak a language that isn't her first. And so thinking about these voters that are out there trying to vote, trying to exercise their civic duty, trying to be an engaged part of their community and like the barrier is something that so many immigrants and so many Asian-Americans and people I know struggle with was, was very personally hard for me."

<u>Poll Worker Training</u>. Furthermore, although litigation aimed at challenging the enactment of large-scale state statutes often garners public attention, the fight to stymie the discriminatory actions of poll workers is equally costly and further reveals how the operational, financial, and evidentiary burden to combat challenges disproportionately falls on organizations and affected voters. Testimony about voting rights litigation aimed at dealing with poll workers was quite revealing, ranging from suits to address the behavior and availability of poll workers to suits challenging proposals to change how voters access polling locations. At each instance, witnesses remarked on the need to address poll workers as part and parcel of a larger post-Shelby landscape of discriminatory action. For example, witness Mimi Marziani, Chairwoman of the Texas Advisory Committee to the U.S. Commission on Civil Rights, testified that Texas voters reported blatant discriminatory actions by poll workers. Marziani stated, "Finally . . . I include some pretty horrific stories that voters experienced when they were seeking to vote. Many of them at the hands of election workers."178 The Chairwoman continued, "One I'll highlight. A brownskinned voter in Kingswood gave her driver's license to a poll worker, who asked her how long she had been in the U.S. She responded that she was a naturalized citizen from Canada. The poll worker said, 'Welcome to America.' He then asked the same question of the voter's mom. But, then did not ask that question of any of the lightskinned people standing in line."

In Ohio, witness Elaine Tso, Interim Co-CEO of Asian Services In Action, testified that Ohio lawmakers did not properly consider how a legislative proposal to reduce the number of poll workers "per precinct from four to two" would negatively impact participation.¹⁸⁰ Tso testified that the proposal "would disproportionately impact anyone who needed additional assistance at the polls.¹⁸¹ Whether that's inviting a helper for a limited English proficient voter or anyone who needs an accommodation of some sort, because that would need some approval from our poll worker.¹⁸² Ohio witness Kimlee Sureemee provided testimony regarding poll workers:

"Myself as a voter . . . last year I went to go vote in my polling location for the general election. I had eight lines to check in. There were eight lines to check in in my polling location. Four lines that were formed then to go into a polling booth. There were two lines that were formed the actually get your form scanned. That was just me as an individual in Lakewood voting. It was over 45 minutes in and out to actually get my vote counted. Imagine what that looks like for someone who has limited English. Not knowing how to . . . especially with poll worker reductions, being able to navigate and manage that type of experience, it's just difficult. That's why our program is primarily a vote by mail program as well. We really educate our community members to vote by mail, because we see that that's the easiest way to ensure that their vote is counted. We do this in particular by partnering with the board of elections too."

Poll Closures. Witnesses also testified that poll and poll worker reductions affected voters of color more often than other communities precisely because states heavily rely on poll workers, many of whom did not receive adequate training or support. For example, witness Marziani noted that Texas poll workers were "usually appointed by the local political party," with "very few standards on who is able to be a poll worker," and that poll workers were "paid very little" and received "haphazard" training."184 The Chairwoman concluded, "The result of that is pretty gross mismanagement of the polling locations."185 Marziani then provided what the chairwoman called "one very blatant example, during the 2018 elections . . . [from] Harris County, home to Houston" where "at least nine polling locations . . . opened more than an hour late, all of them located in communities of color" 186 Marziani recalled the indifference law enforcement personnel seemed to take toward the situation, and remarked, "When we called the local county clerk and said action needs to be taken, we were told that, 'No, no, we shouldn't worry about it. These sort of problems are typical for Election Day,' even though countless folks couldn't stand in line for hours and hours. . . . Ultimately," she continued, "we sued, representing a community organizing group here in Texas, and we were able to get the polls opened for another hour."187 Whether by a coincidence of circumstances or by intention, voters were disenfranchised when poll workers did not show up on time and when poll workers did not ready their voting equipment to open up on time.

A speaker at the Georgia People's Hearing discussed an experience with polling site closures: "In 2017 we learned that the Macon-Bibb County board of elections was prepared to shut down half of the polling locations in the county. And all of 98 percent, excuse me, of the board of elections or the polling locations that they wanted to shut down were counties that were majority . . . Polling locations that were majority black, that had voted for Obama in 2008 and 2012. When pushed on why do you want to close half of the polling locations in this major county, they said that they wanted to save money. While we joined with our brothers and sisters at the NAACP and folks from the Lawyers' Committee that pushed to find out that they were probably going to save something like \$100. Per precinct . . . They [were] prepared to disenfranchise the majority of black voters in one of Georgia's largest counties because they were going to save something like \$100. And when we ask . . . Not only that, they had planned to take one of the largest precincts in the black community and move it from the community center to the police station. And when we pushed back and said, 'People don't want to vote in the police station,' they said, 'Well, only criminals don't want to vote in a police station, and if your folks aren't criminals and then they won't have any problems going into the police station in order to vote.' So what do we do? We mobilize. We found a little-known provision

in Georgia law that says if we collect signatures from 20 percent of the voters in a particular location where they're trying to shut down or close a precinct, that we can block it." 188

That poll workers coming from communities of color might bring a different orientation to the task of election administration was also highlighted during testimony. For example, witness Oliver "OJ" Semans, Co-Director of Four Directions, made recommendations that "election officials work with communities to get more people of color to become election judges and election poll watchers." 189 Semans remarked, "The voter suppression does not have to be a mile away and does not have to be a law. It could be three foot, the length of the table, when you're coming up to vote." 190 For Semans, the benefits of descriptive representation for stopping election-related discrimination could not be clearer. "We have found that where we have had our Natives as election officials, more people will come because they're not going to be embarrassed," Semans testified.¹⁹¹ "They're not going to be turned away. It's a friendly atmosphere. Our people are friendly people, and so it doesn't matter what color you are. When you come in, you are going to be treated with respect."192 In short, witnesses made direct connections between voting rights litigation to address poll workers and the larger battle to restore preclearance and to revise the coverage formula. Poll workers, witnesses testified, can be too partisan if their support for a preferred candidate motivates them to engage in discriminatory behavior towards their opponents.193

Long Lines. During both congressional field hearings and the People's Hearings in Florida and in Alabama, individuals spoke directly to the impact of seeing long voter lines and having experienced standing in long voter lines. Testimony by Jeralyn Cave, of Advancement Project, witnessed long lines during the 2016 election in Florida. Her account is both illustrative and typical. Cave described her experience during the 2016 presidential election in the following manner:

"So, I want to tell this story about how in 2016 my colleague and I, Carolyn Thompson, were here doing a press conference in honor of Desiline Victor. We are here at the north Miami Library where the Desiline Victor Wing is named after her because she waited six hours in line to vote for Obama and was honored at the State of the Union address. While we were here, though, we saw extremely long lines, and there were celebrities here. There were food trucks here. There were other people that were here that were trying to encourage people to stay in line, and that is extremely unnecessary. We think it's wrong, and so it does need to be fixed." 1941

Voters of color also complained about the disparities in long wait times between their polling locations and those in other districts. For example, in testimony at the Alabama People's Hearings, a witness described his experience during the 2012 presidential election. He remarked, "So, I can remember 2012 presidential election cycle and going to vote, I didn't get in line till about four o'clock. And I didn't vote until about 8:30. So you literally had lines, you know, back out of the parking lot, down into the neighborhood, and then you really look into extra cell block, you know, because, you know how many registered voters in your area, and you know about how long it takes to go to voting." ¹⁹⁵ He continued, "So it's almost intentional when they set one voting location for thousands, thousands of people. So, when you look at other areas, where people can walk right in, vote and be back out in three minutes, and then you ask yourself, okay, why am I standing in line for four and a half hours to be able to vote?" ¹⁹⁶

Another Alabama witness shared a similar story about the stark contrast in the quality and number of polling locations made available to voters in predominantly white districts compared to those made available to voters in predominantly black districts. Tragically, her comments are also both illustrative and typical of what witnesses shared. The anonymous black woman testified to the following:

"Now I'm a resident of Fultondale and I vote at a senior facility. The first time I voted there, I was very surprised, there was no line. You walk in, and they do have separate... traditional sections, that you can stand up. But there were tables all lined up, and everybody was sitting down, filling out their ballot, and I was like 'Wait, what?' It was so pleasant, we would walk in and see air conditioning, and they're like 'Hi, Ma'am.' ...[T]hey give you your ballot. You sit down, you take your time; you're not rushed. You can talk to people if you want to, nobody is really moving. You put your ballot in, they give you your 'I voted' sticker, and you're out the door and I was like... I noticed that there's not a lot of people my color, that get that privilege. To sit in air conditioning and sit down and have their time to make well informed decisions in voting, and you go to the other side of town where I was born and raised for most of my life. You have older... elderly people and people that do look like me, that have to be in the 90 degree weather, standing up, disabled, old, and even something so simple as 'conditions' can deter people from voting."15

Roger White Owl, Chief Executive Officer of the Mandan, Hidatsa, and Arikara Nation, explained, "We also do not have enough polling places. Two important

polling places on our Four Bears Segment and Mandaree Segment were recently closed. Four Bears is one of the major economic hubs in our capital. With only a couple polling places, many tribal members had to drive 80 or 100 miles round trip to cast their vote. This is unacceptable. The federal government must provide resources and open staff for polling places on Indian reservations." Alicia LaCounte, General Counsel of the Turtle Mountain Band of Chippewa Indians, argued that "[T]he recent enactment of the North Dakota bills, which places requirements on the original citizens of this land, tend to diminish, discourage, and repress the Turtle Mountain tribal citizens' right to vote and access to the poll." 1997.

Provisional Ballots. Duly registered voters were also denied opportunities to cast a regular ballot. In Ohio, for example, Angela Woodson, Political Action Chair for the Cleveland Branch of the NAACP, provided a story about a young voter who tried to navigate the state's voter ID requirements. Woodson remarked that the "young lady...actually had a state ID from Alabama" and "did register in time to vote, to change her voter registration to here, but she had not quite gotten her state of Ohio license yet, but she did have an Ohio insurance card." 200 The voter expected to cast a regular ballot, especially since one of the utility bills was in her husband's name and "reflected the same address" as did "her health insurance card." 201 But, as Woodson recounted, "The challenge was [that] she had no other ID to try to vote" and, as result, "[o]f course, they immediately say, 'Provisional." 202

Poll workers incorrectly denied voters a regular ballot. Ohio witness Billy Sharp, President of the Urban League Guild, recalled, "[F] or a while ago I was a poll watcher, and I watched poll workers tell voters, 'You're not on the voter rolls here, you have to go vote somewhere else.' Well, they had no mention of a provisional ballot. If I'm working and I'm on my break, I really can't afford to go to another location or to the right location." address these problems, Sharp recommended that "we need to probably drill down on training" of poll workers. 204

Moreover, James Major Woodall served as an Election Protection volunteer. He received a call that election officials were denying students at Albany State University the ability to cast ballots. He recalled, "[I] twas actually several students from Albany State University, one of the HBCUs here in Georgia. And it wasn't a student, it was a parent who called us and said that her child was unable to vote, even though they had her registered to vote, even though that they was at the right precinct, and even though they had proof that they had did what they said they had done. But they were prevented from not only voting but casting their provisional ballot. . . . [I] n 2018 and I got a call from a parent of a student at Albany State University, and that student's mother told us, 'My baby cannot vote.' And I asked her,

'Well, what's wrong? What's going on? Talk to her.' And she said, 'My son registered to vote with the NAACP. They had made sure that they were going to the right precinct and they had registered right on time. They had all the correct and important information, the documentation they needed by the state law. They had identification, but when they showed up to vote, they were told not only that they were not on the roll, but that they also were not able to cast a provisional ballot.' And then what got even worse was that student wasn't the only one. There were several dozens of students at Albany State University who were not able to vote and we had to do a separate investigation to figure out what was going on because that was unacceptable. Even if there was some discrepancy, they should at least be able to cast a provisional ballot."205

That "conditions" matter to how voters experience elections is not a new observation, but that the post-Shelby landscape may have emboldened states to ignore racial disparities in the factors shaping how voters experience the electoral process is a new observation worthy of congressional scrutiny and public outrage. 200 Because "conditions" matter, it is important that the Congress and the public attend to the ways in which public confusion can produce the same discriminatory results as outright poll worker hostility toward voters.

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"[F]or a while ago I was a poll watcher, and I watched poll workers tell voters, 'You're not on the voter rolls here, you have to go vote somewhere else.' Well, they had no mention of a provisional ballot".

Billy Sharp, Ohio Witness and President of the Urban League Guild



The People's Proposals

Witnesses testifying before the Subcommittee on Elections and the People's Hearings offered an array of short-, medium-, and long-range solutions to reaffirm (in the strongest terms possible) that citizens who are eligible to vote must have unfettered access to the ballot box and must have their votes appropriately counted, and that the effects of the Shelby County decision must be remediated. In an Alabama People's Hearing, Earnest Montgomery, a resident of Shelby County offered, "I do understand now how important the power of the vote is. I believe the greatest survival to our democracy is the power to vote. Our government must commit to assuring that every legal citizen be included, every barrier that prohibits be destroyed, every election from our local schools all the way to our federal elections be fair. I hope our elected leaders in Washington, DC can soon come up with some solution to protect every person's right to vote by some formula or preclearance. For we all know, as it's been said, that one ounce of prevention is more valuable than a pound of cure." ²⁰⁰⁷

In the table below and on the next page, we present a summary account of the solutions that hearing participants proposed. The solutions address issues at the federal, state, and local level, and aim to rebuild and strengthen the wall of protection enshrined in the extraordinary provisions of the Voting Rights Act. The witnesses' solutions, we contend, reflect three realities. First, as remarked by Mimi Marziani, Chair of the Texas Advisory Committee to the U.S. Commission on Civil Rights, that "discrimination in voter registration is persistent, and in fact and sadly, it appears to be getting worse." ²⁰⁸ Second, that the coverage formula and the preclearance regime helped to keep most election-related discrimination at bay, even though neither provision nor their combination could change the underlying attitudes that motivate actors to engage in unconstitutional behavior. Third, that the protection of voting rights has always been and must always remain a bipartisan effort that reflects the shared concerns of Democrats and Republicans.

Table: Solutions and Recommendations Presented By Witnesses

Talk directly with community members about voting practices and concerns

Restore Section 4 of the Voting Rights Act, which will give operative force to Section 5

Account for systemic discrimination in redistricting when considering a revised coverage formula

Establish an independent federal agency to regulate voting laws

Expand the Help America Vote Act

Adopt House Resolution 1 (H.R. 1) "For the People Act"

Enhance training for poll workers

Extend poll locations and hours

Establish pre-registration for 16 and 17 year-olds

Establish an Election Day holiday

Expand early voting

Expand same day registration and voting

Expand weekend voting

Increase funding for cyber security and equipment testing labs

Honor federal treaties with Native American tribes and nations

Allow tribal governments to choose polling locations on tribal lands

Increase funding to develop accessible polling locations for Native people

Enhance language accessibility at polling locations

End felony disenfranchisement

Source: Author analysis of the 2019 field hearings by the U.S. House of Representatives' Committee on House Administration Subcommittee on Elections and People's Hearings conducted by the Anchors.

Witnesses overwhelmingly called for Congress to "restore" the coverage formula to give operative force to the preclearance regime, and for Congress to consider refining Section 2, if necessary, to survive possible future judicial attacks. Witnesses also recommended that any attempts to develop a new coverage formula account for previous systemic acts of racial discrimination, and according to Patricia Timmons-Goodson, Vice Chair of the U.S. Commission on Civil Rights, it's crucial for Congress to remember that these discriminatory acts "tend to recur in certain areas." ²⁰⁷ Furthermore, witnesses suggested that lawmakers direct federal funding to monitor and respond to racial discrimination in voting practices, and suggested that Congress establish an independent federal agency to regulate voting rights laws. Irving Joyner, Professor of Law at North Carolina Central University School of Law, testified that "Voting is a fundamental right and it is just as fundamental as is communications, as is election financing, and their independent agencies at the federal level to oversee that we have lost faith in the Justice Department to protect our rights. Therefore, we

need something more permanent than that and it ought to be in the form of an independent agency with the authority and power to oversee and regulate voting."²¹⁰

Witnesses also recommended reforms that were unrelated to reanimating preclearance but that directly related to improving access to the ballot—e.g., expanding adoption of same day registration and voting, early voting, and weekend voting—and to improving protection of the electoral system. For example, Ohio People's Hearing witness Ms. Simmons, a retired union worker, stressed that the registration and voting processes should be streamlined. She noted that voters encounter multiple steps along the way to casting a ballot. She testified to the following:

"When I was running for Precinct Committee Person, I was asking people to register to vote. I got an extra, I would say, an extra 70 some people to register to vote. Soon I got to get on their nerves, cause first they had to register to vote, then they got to turn that paper in, then you got to come back to them with the vote by mail, then they got to turn that in. Then they get the ballot, I got to go back to them, 'Did you get your ballot?'. 'I don't know,' you know it's on the kitchen table so they don't know if they got the ballot cause they got so many papers coming back in. It should be a little bit shorter. I don't know how to make it shorter, cause I don't know nothing about that practice, but when you register them

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"Voting is a fundamental right and it is just as fundamental as is communications, as is election financing, and their independent agencies at the federal level to oversee that we have lost faith in the Justice Department to protect our rights. Therefore, we need something more permanent than that and it ought to be in the form of an independent agency with the authority and power to oversee and regulate voting."

Irving Joyner, Professor of Law at North Carolina Central University School of Law to vote, then you got to get this and get that and then they're tired. Bout time election time came, they got tired of all the paperwork to be done." 211

Acknowledging the Unique Relationship with Tribal Governments. Witnesses recommended that Congress enact legislation to deal with the unique circumstances facing Native American voters, particularly those residing on tribal lands. For example, witnesses called for stronger enforcement of treaties between the federal government and the Native American Nations in the area of voting rights; for an increase in direct communication between Native people communities and election officials; and for Congress to ensure access to voter registration, early voting, and election day polling places on Native Peoples' reservations. Other recommendations were for states and the federal government to work in collaboration with tribal governments, to provide additional funding for cyber-security protocols and equipment testing, and to respect the sovereignty of Native American tribes. Mr. White Owl called for the subcommittee to raise this issue to the highest levels of House leadership. For White Owl, "the federal government, not the states, should work with tribes to come up with the voting rules that will work on our reservations."212 White Owl explained the unique government-to-government relationship between American Indian tribes and the federal government, saying, "The federal government should also work with us to determine how many polling places are needed on our reservation, and the federal government should provide funding to support these polling places. The state should have no part in our right to vote in elections. In fact, North Dakota is working hard to keep tribal members from casting a vote. Recent elections here have been very close for a few thousand votes. If a tribal member can't cast their vote, candidates they support, that support our issues, can't get elected."213

Election Day Holiday. Particularly prominent among the recommendations were calls for an Election Day holiday, either at the federal level or at the state/local level. Theoretically, such a holiday would enhance access to the ballot for all voters as well as promote entry for particular segments of the electorate (e.g., voters with disabilities, voters of low-income status, voters dependent upon public transportation, voters with non-traditional work hours). Additionally, an Election Day holiday could reduce the likelihood that citizens choose disengagement over participation when considering pressures on their time related to getting to work, traveling to the polls, and addressing childcare and eldercare responsibilities.

<u>Congressional Legislation</u>. Witnesses recommended that Congress pass House Resolution 1 ("For the People Act"). They noted that the legislation would allocate funding for the development and maintenance of polling locations (with

emphasis on rural areas and hard-to-reach areas) and for states to hire, train, and compensate poll workers from diverse backgrounds (especially to provide language assistance to voters with limited proficiency in English). Speaking to the financial resources needed to maintain voting equipment, Inajo Davis Chappell, member of the Cuyahoga County Board of Elections, argued that Congress must "make sure that the testing labs that are used, because there aren't that many, that there are enough that they are testing the equipment to make sure that there's no way to hack in. "214

Felon Disenfranchisement. Witnesses also demanded an end to felon disenfranchisement. Here we quote witness testimony from the Florida People's Hearings and the Alabama People's Hearings to provide illustrative examples of voter concerns about the often murky, arbitrary, frustrating, and confusing processes designed to restore or actualize voting rights. Because these processes interface substantially with the socioeconomic and political system, citizens often have limited options. Speaking to the economic constraints, Jason Barnes of the Alabama Voting Rights Project shared a story about working with a client who "owes \$60,000 in fines and fees right now. He is 55 years old. He has only paid maybe \$500. He will never be able to vote. Cause he can't afford to get it back."215 Barnes also remarked on the lengthy process when individuals "have to fill out a certificate of eligibility to vote" which "goes to the board of pardons and paroles."216 Barnes noted that it "takes 44 days for that to come back," and individuals "have to pay off their fines and fees" and "be off probation and parole."217 Barnes noted that individuals also "cannot have a pending conviction . . . they cannot have a pending disqualifying conviction because it is treated as if they are guilty." In offering a summary conclusion, Barnes remarked, "So they have to jump through a whole bunch of hoops just for the board of pardons and paroles to tell them okay. now you can vote. Now you gotta add another 14 days on it because they actually have to register to vote."

Speaking to the impact of other hoops and limitations, Florida Senator Victor Torres testified about a proposal put forth by state legislators. He remarked, "I want to read a brief on the legislation we just passed on the voter restoration rights. The bill the Senate passed requires a person to pay all court fees, fines, and restitutions before they can vote, and also sets up two ways these costs can be excused." Nevertheless, he intimated, those routes can be confusing: "Meaning that it's not 100 percent but it's given the opportunity to restoration rights to vote. It means that you who are in doubt have an opportunity to see if a judge or if you're waiting for litigation on your trial or your case, that they have the opportunity to waive and get your voting rights restored by doing community time. But as we know, everything is." To these witnesses and others, felon disenfranchisement meant that some

portions of the citizenry were deliberately ignored and excluded from informing policy decisions which affected their lives and the lives of their families.

In conclusion, witnesses recommended a wide range of solutions to address modern-day voter suppression. Those solutions readily underscored the complex intersection between race/ethnicity, socioeconomic circumstances, and access to the ballot. In addition, those solutions acknowledged the need for greater cooperation between affected voters and federal, state, and local governmental entities. To that, it should be unsurprising that witnesses proposed innovative solutions to countering and reversing the effects of Shelby and to strengthening the Voting Rights Act. The post-Shelby landscape is replete with new and unprecedented dangers for all voters, and especially for voters of color. The Supreme Court decision removed several of the main protections keeping poor voters and voters of color safe from the incessant onslaught of discriminatory laws. In the immediate aftermath, legislators across the nation, particularly in those locales most notorious for voter discrimination, rushed to create and to enforce new rules that disenfranchised voters and that would shift elections in favor of persons who were not candidates of choice for communities of color. To add insult to injury, lawmakers often couched reform efforts as anti-election fraud (either registration fraud or voter impersonation fraud), and as non-injurious to particular communities. According to witness testimony, much of which included statistics about the effects of electoral reforms on vulnerable communities, nothing could be further from the truth. It is apparent that facially neutral policies often hide discriminatory effects. Moreover, the extremely low probability that individuals have committed voter fraud pales in comparison to the extremely high reality that individuals have been disenfranchised. Our country is at a crossroads. Democracy demands nondiscriminatory access to the ballot. Congress must protect the ability to participate in the electoral franchise. "We the People" demand action to eliminate the discriminatory barriers to the ballot as they currently exist and will evolve in the future.

Endnotes

- 1. The term "Hispanic" is used interchangeably with Latino and Latinx throughout this report.
- MICHABL T. MOSLEY, Prophylactic Redistricting? Congress's Section 5 Power and the New Equal Protection Right to Vote, 59 Wst. & MARY L. Rev. 2053 (2018).
- 3. The preamble of the United States constitution reads:

"We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America." U.S. CONST. pmbl.

- 4. The Fifteenth Amendment of the U. S. Constitution provides:
 - "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. The Congress shall have power to enforce this article by appropriate legislation." U.S. CONST. amend. XV, §§ 1–2.
- 5 The Jim Crow era defines the late 1800's to the 1960's in this country's history where it sought to replace slavery with legal segregation. "Jim Crow laws' were state laws and local ordinances enacted from the end of Reconstruction through the first six decades of the twentieth century for the purpose of mandating de-jure racial segregation of all public transportation conveyances, restaurants, restrooms, water fountains, schools, hotels, libraries, and virtually every other form of public accommodations and facilities." See, *Lynch by Lynch v. Alabama*, No. CV 08-S-450-NE, 2011 WL 13186739, at *47-48 (N.D. Ala Nov. 7, 2011), all'd in part, vacated in part, remanded sub nom. *I.L. v. Alabama*, 739 F.3d 1273 (11th Cir. 2014)
- 6. Smithsonian Nat. Museum of Am. History, White Only: Jim Crow in America, Separate is not Equal: Brown v. Board of Education, https://american.history.ed.edu/brown/history/1-segregated/white-only-L.html. (last visited Oct. 22, 2019).
- 7. Elk v. Wilkins, 112 U.S. 94, (1884).
- Developments in the Law—Securing Indian Voting Rights, 129 HARV. L. REV. 1731, 1734 (2016) (citations omitted); see also James Thomas Tucker, The Battle over "Bilingual Balots" Shifts to the Contrex A Post-Boerne Assessment of Section 203 of the Voting Rights Act, 45 HARV. J. ON LEGIS. 507, 520 (2008).

- Nina Perales, Luis Figueroa & Criselda G. Rivas, Voting Rights in Texas: 1982-2006, 17 S.
 CAL. REV. L. & Soc. JUST. 713, 713 (2008) ("Texas has experienced a long history of voting discrimination against its Latino and African-American citizens dating back to 1845.").
- 10. U.S. Comm'n on Civil Rights, August 18, 2017, pp. 77-78.
- 11. Smith v. Allwright, 321 U.S. 649 (1944).
- Continuing Need for Section 203's Provisions for Limited English Proficient Voters: Hearing Before the S. Comm. on the Judiciary, 109th Cong. 309 (2006) (letter from Joe Garcia, Nat'l Congress of Am. Indians); Daniel McCool, Susan M. Olson, and Jennifer L. Robinson, Native Vote: American Indians, The Voting Rights Act, And The Rights To Vote 10 (2007).
- 13. Harrison v. Laveen, 67 Ariz. 337 (1948).
- 14. California limited voting rights to white citizens; Idaho, New Mexico and Washington withheld the right to vote from Native Americans not taxed. The North Dakota Constitution limited voting to "civilized" Native Americans who had severed tribal relations. In 1956, Utah was one of the last states to ban a statute that prevented Native Americans residing on the reservation from voting because it did not count them as citizens of Utah. DANIEL McCOOL, SUSAN M. OLSON & JINNIFER L. ROBINSON, NATIVE VOTE, supra note 12.
- 18. See Chinese Exclusion Act of 1882, ch. 126, 22 Stat. 58, 58-61 (repealed 1943) (prohibiting immigration of Chinese laborers); Immigration Act of 1917, ch. 29, 39 Stat. 874, 874-98; Immigration Act of 1924, ch. 190, 43 Stat. 153 (repealed 1952) (banning immigration from almost all countries in the Asia-Pacific region); Leti Volpp, Divesting Citizenship: On Asian American History and the Loss of Citizenship Through Marriage, 53 UCLA L. REV. 405, 415 (2005).
- 16. See, e.g., Philippines Independence Act of 1934, ch. 84, 48 Stat. 456, 462 (amended 1946) (imposing annual quota of fifty Filipino immigrants); Immigration Act of 1924, ch. 190, 43 Stat. 153 (repealed 1952) (denying entry to virtually all Asians); Scott Act of 1886, ch. 1064, 25 Stat. 504 (rendering 20,000 Chinese re-entry certificates null and void); Naturalization Act of 1790, ch. 3, 1 Stat. 103 (repealed 1795) (providing one of the first laws to limit naturalization to aliens who were "free white persons" and thus, in effect, excluding African Americans, and later, Asian Americans).
- Ozawa v. United States, 260 U.S. 178, 198 (1922); see, e.g., CAL. CONST. of 1879 an. II, § 1 (1879) ("no native of China.... shall ever exercise the privileges of an elector in this State"); Oyama v. California, 332 U.S. 633, 662 (1948) (Murphy, 1, concurring) (noting that California's Alien Land Law "was designed to effectuate a purely racial discrimination, to prohibit a Japanese alien from owning or using agricultural land solely because he is a Japanese alien").
- 18. Karen Narasaki serves as a Commissioner on the U.S. Civil Rights Commission. She is a former President and Executive Director of Asian Americans Advancing Justice, a national civil rights organization. Her statements were made during a U.S. Commission on Civil Rights Hearing in Washington, DC on August 18, 2017, pp. 77-78.
- 19. Id

- 20. Congressmen Jesús "Chuy" García, Jimmy Gomez and Adriano Espaillat join NPNA, UnidosUS, and Allies to Call on USCIS to Focus on Application Processing, not Enforcement, NAT'L PARTNERSHIP FOR NEW AM., (Jul. 16, 2019), https://partnershipfornewsmericans.org/. congressmen.jesus-chuy-garcía-jimmy-gomez-and-adriano-espaillatioin-npna-unidosus-and-allies-to-call-on-uscis-to-focus-on-application-processing-not-enforcement/.
- 21. Immigration and Nationality Act of 1965 (Hart-Cellar Act), Pub. L. No. 89-236, 79 Stat. 911.
- Ming Hsu Chen & Tacku Lee, Reimagining Democratic Inclusion: Asian Americans and the Voting Rights Act, 3 UC IRVINE L. Rev. 359, 376–77 (2013).
- 23. THE RISE OF ASIAN AMERICANS, PEW RESEARCH CENTER 59 (2012), https://www.pewsocialtrends.org/2012/06/19/the-rise-of-asian-americans/.
- Civil Rights Act of 1957, Pub. L. 85-315, 71 Stat. 634 (codified as amended at 42 U.S.C. § 1995 (2006)).
- 25. United States v. Atkins, 323 F.2d 733 (5th Cir. 1963).
- 26. Id. at 736.
- 27. See South Carolina v. Katzenbach, 383 U.S. 301, 313 (1966) (reviewing the Civil Rights Acts of 1957, 1960, and 1964 to conclude that "Congress has repeatedly tried to cope with the problem by facilitating case-by-case litigation against voting discrimination").
- 28. Voting Rights Act of 1965 § 2, 52 U.S.C.A. § 10301 reads:

Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites; establishment of violation

- (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title, as provided in subsection (b).
- (b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.
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- 31. Id.

- 32. President Ronald Reagan, Text of President's Statement: Special to the New York Times, November 7, 1981, html. ("The right to vote is the crown jewel of American liberties, and we will not see its luster diminished.").
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- 34. South Carolina v. Katzenbach, 383 U.S. 301, 313 (1966).
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- 36. 28 C.F.R. § 51.52.
- 37. 28 C.F.R. § 51.1.
- 38. Allen v. State Board of Elections, 393 U.S. 544, 565 (1969)
- 39. Katzenbach v. Morgan, 384 U.S. 641 (1966).
- H.R. 6219, 94th Cong. (1975) (as approved on Aug. 6, 1975) (codified at 52 U.S.C.A. § 10503).
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- 47. Katzenbach v. Morgan, 384 U.S. 641 (1966).
- 18. Id
- 49. Crawford v. Marion Cty. Election Bd., 553 U.S. 181 (2008).
- 50. Id.

- 51. Nw. Austin Mun. Util. Dist. No. One v. Holder, 557 U.S. 193 (2009).
- The Effects of Shelby County v. Holder, Brennan Center For JUSTICE (Aug. 6, 2018), https://www.brennancenter.org/analysis/effects-shelby-county-v-holder.
- 53. NAACP v. McCrory, 831 F.3d 204 (4th Cir. 2016).
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- 55. Perales, Figueroa & Rivas, supra note 9 at 717.
- 56. See Veasey v. Abbott, 830 F.3d 216 (5th Cir. 2016).
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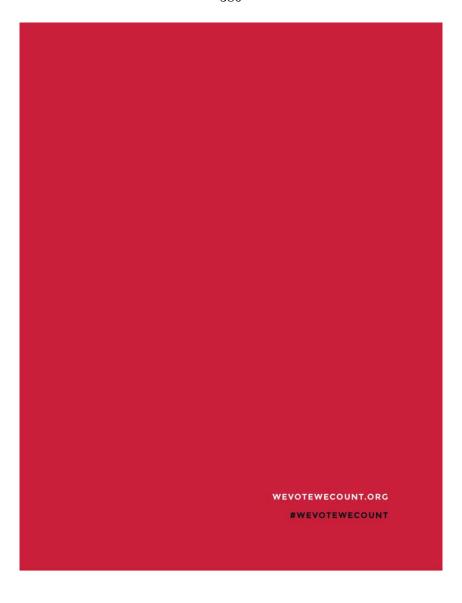
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Are All Precincts Created Equal?

The Prevalence of Low-Quality Precincts in Low-Income and Minority Communities

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More than forty years after passage of the 1965 Voting Rights Act, a fundamental question remains unanswered: although all citizens have an equal right to the ballot, do all citizens enjoy equal access to the ballot box? That is, are voting precincts in predominantly low-income and non-white neighborhoods less visible, less stable, harder to find, and harder to navigate than voting precincts in high-income and predominantly white neighborhoods? If so, does the lower quality result in lower levels of voting, all other things equal? The authors' analysis indicates that the quality of polling places varies across the diverse neighborhoods of Los Angeles and that the quality of polling places influences voter turnout. Low-income and minority communities tended to have "lower quality" precincts, which tended to depress voter turnout.

Keywords: precinct quality, voter turnout, race, class

the right to vote is among the most cherished The right to voic is among the most arrange privileges afforded citizens in a democracy. That so many Americans decide to stay away from the polls on Election Day and not cast a ballot confounds political practitioners and political scientists alike. Even in the highly contested 2000 presidential election, a large number of eligible citizens did not participate in the democratic process. Since the 1960s, scholars have documented the growing number of nonvoters and wondered why turnout has been on the decline (Teixeira 1987; Wattenberg 2002). While previous studies have cited declining trust in government, uncompetitive races, too frequent elections, changing demographics, and depleting social capital, few have focused explicitly on the costs associated with voting (Rosenstone and Hansen 1993). When they do, many of these studies focus on how changes in registration laws or early voting procedures might reduce the costs of voting (Brians and Grofman 2001; Highton 1997). However, Election Day costs might also exist in the form of the polling place location, yet only one previous study has examined the voter's physical relationship to the voting precinct as a possible determinant of turnout (Gimpel and Schuknecht 2003; Dyck and Gimpel 2005; Haspel and Knotts 2005). While some studies have assessed disabled

voters' access to the polling place¹ (Bundy 2003), the costs imposed by the experience at the polls has escaped systematic examination.

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In this article, we investigate some of the costs potential voters experience at their polling place and how these costs may be distributed across precincts. We argue that not all polling places are created equal: those that are less accessible, are of lower quality, or have less informed poll workers have lower voter turnout. We expect that these low-quality precincts are not randomly distributed within a political jurisdiction but rather are more prevalent in low-income and minority neighborhoods, further depressing turnout in areas where residents on average have a lower propensity to vote. To explore these propositions, we conducted the first-ever scientific monitoring project to

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measure polling place characteristics in relation to demographic and turnout data. In this article, we report on the extent to which polling places in Los Angeles vary, the geographic distribution of low-quality voting places, and the relationship between the experience encountered at the polls and voter turnout.

In assessing the relationship between precinct quality and voter turnout, we proceed in four sections. First, we review the relevant literature on the costs of voting. Second, because ours is the first field study to assess the quality and accessibility of a large number of polling places, we review the design and implementation of the research. Next, we detail how the quality and accessibility of polling places vary across our study area, Los Angeles, California. Finally, we test the relationship between polling place quality, the socioeconomic characteristics of the precinct, and voter turnout.

The Costs of Voting

Although few citizens consciously conduct a cost-benefit analysis before deciding whether or not to vote, all potential voters assess whether it is worth their time to travel to the polling place, decide how to vote, and cast a ballot. While many factors influence citizens' decision to vote on Election Day, they must first overcome some hurdles or costs associated with voting; registering to vote, becoming informed about the issues and candidates, learning the location of their voting place, and taking the time to vote. Generally, these costs can be divided into two categories, institutional and individual. Institutional costs are those associated with the rules and regulations of voting, such as registration requirements, while individual costs are those that affect citizens differently, such as gathering information.

Anthony Downs' classic, An Economic Theory of Democracy (1957), remains the starting point for much research on turnout. For Downs, the relevant question is not why turnout is so low but rather why it is so high. Reasons Downs, "when voting is costly, its costs may outweigh its returns, so abstention can be rational even for citizens with party preferences. In fact, the returns from voting are usually so low that even small costs may cause many voters to abstain" (1957, 274). Efforts to determine the potential benefits of voting are also costly, requiring citizens to determine which party or candidate would increase their expected utility and then to calculate the likelihood that theirs would be the deciding ballot cast. If

citizens conclude that there are benefits to voting, they then confront the costs of registering to vote, traveling to the polling place, and casting the ballot. Faced with these costs and recognizing that they are unlikely to cast the deciding ballot, most citizens ultimately decide that voting is not worth their time. However, many citizens do vote even though they aren't casting the tie-breaking ballot. This may be the result of what Downs, and later Riker and Ordeshook (1968), describe as a sense of civic duty or democratic pride. Although the benefits to voting are low, so too are the costs, driving many citizens to participate in an election out of a sense of civic duty. However, if the costs escalate or the benefits diminish, even these model citizens may decide it is not worth their time to vote.

Downs' argument that low turnout stems from rational behavior continues to inspire debate. In his reexamination of the costs of voting, Blais (2000, 84) concludes that in modern democracies, the costs of voting are extremely low and not likely prohibitive: "citizens have only to answer a short questionnaire to become registered on the electoral list, to go to a polling station that is usually located close to where they live; and to indicate on a ballot which party(ies) and/or candidate(s) they wish to support. These activities are supposed to require very little time and effort." Yet, Blais concedes that increasing the time it takes to vote could impose a cost sufficient to reduce turnout. Indeed, other scholars warn against overestimating the convenience of voting. Research by Gimpel and Schuknecht (2003) as well as Dyck and Gimpel (2005) demonstrates that polling place location can negatively affect turnout. Both studies consider the geographic distance of polling places relative to the population they serve and find that the distance of suburban voters from their polling place is inversely related to suburban turnout rates. Gimpel and Schuknecht note, "Some precinct locations are more accessible than others, and for the less accessible ones, at least some people will feel that the costs to get there outweigh any benefit" (p. 472). Although their research only examined one facet of precinct accessibility-distance from home-the aforementioned authors bring renewed interest to innovative ways to study the costs of voting. They argue that because accessibility "has rarely been one of the convenience factors subject to measurement," future research on voter turnout "could benefit by using innovative methodologies to examine geographic accessibility of precinct polling places" (pp. 472-73). While Blais (2000) contends that the costs of voting are low, his own research confirms that increasing the costs for voters at the precinct can reduce turnout. He estimated that increasing the time it takes to vote from between fifteen and thirty minutes to forty-five minutes would result in lower voter turnout.

Along these lines, scholars concerned with the calculus of voting have examined potential demobilizing factors that come up on Election Day. Katosh and Traugott (1982) report that polls open shorter hours have lower voter turnout. Knack (1994) investigates the impact that bad weather has on the turnout rates of Democrats and Republicans. He finds that although some voters are committed to voting rain or shine. rainy days tend to decrease voter turnout among the less committed. Merrifield (1993) finds similar results for inclement weather and turnout.

Before 1965, many polling places were known to be cost incurring, and the Voting Rights Act (VRA) purposely eliminated Election Day costs such as poll taxes and literacy tests while also improving access to precincts in low-income and minority communities. However, election officials concerned about decreasing levels of turnout have recognized obstacles to voting and have attempted to make the ballot more widely accessible. Most notably, Oregon has gone to an exclusive system of vote by mail while Arizona, Michigan, and Iowa have tried Internet voting experiments to give voters more flexibility and reduce the costs associated with polling places. Elsewhere, electronic touch-screen voting has been rolled out to community centers, shopping malls, and grocery stores as an early-voting option to further reduce the costs of getting to the polls. Nevertheless, the 2000 presidential election cast a cloud over states' efforts to promote access to the ballot when some voters in Florida protested that they were dropped from the voting rolls, that their precinct location had been changed without notice, or that they were asked to present identification to poll workers before they would be allowed to cast a ballot (Navarro and Sengupta 2000).

Many of the charges raised in Florida are among the costs associated with voting examined here, including finding the polling place, navigating the polling place, and potential barriers to voting at the polling place. For example, if the voting precinct location changes from election to election, voters may be unfamiliar with where they should go to vote. Similarly, if a voter pressed for time cannot find a parking spot near the precinct, he or she may drive around the block once or twice before opting to simply return home or go back to work. At the aggregate level, such problems could reduce voter turnout in these precincts.

Overview of the Project

In the March 20042 primary election, a research center at a university in Los Angeles conducted a study of polling place accessibility in precincts randomly selected throughout the city. This research focuses on how the physical characteristics of polling places affect their accessibility as well as the ease and convenience associated with the voting experience in Los Angeles. While the data is limited to the city of Los Angeles, the implications of precinct quality and accessibility are applicable most anywhere in the United States. The purpose of the polling place accessibility study was twofold: first, to assess polling place quality and accessibility in the city of Los Angeles as a whole, and second, to determine if differences in quality were related to the socioeconomic characteristics of the surrounding neighborhood. For example, several polling places in Los Angeles were hard to find, did not have addresses clearly displayed, and offered limited parking. In addition, polling places varied widely in their size, comfort of the waiting area, the number of machines available, and the knowledge of poll workers. Furthermore, there were some notable differences within the city based on the demographic profile of the precinct. Los Angeles serves as an ideal research site because of the wide variation in types of precincts and the economic and racial diversity. Because of the large population in Los Angeles, many precincts are situated in neighborhoods, including private residences. Many polling places are located in garages and living rooms, while other voting sites are in churches or community centers.

Below, we report the raw results of the 2004 citywide study and summarize some of the key variables for which data were gathered. Taken together, the results reveal important insight into the voting experience and how widely it varies among polling places.

We examine three general criteria of precinct accessibility and quality: (1) Are polling places easy to find? (2) Are polling places easy to use and comfortable? and (3) Are there any barriers to voting in polling places? Before turning to the results, we review the methodology and survey instrument used in this investigation.

How Was the Survey Administered?

In March 2004, for the third round of the study, we recruited approximately ninety undergraduate students from our universities to survey polling places throughout the city of Los Angeles and five neighboring comparison sites. Before recruiting

students, we created a "checklist" of criteria to gauge how accessible and voter-friendly a polling place is. This checklist reflects previous scholarship, our personal experiences over the years at various precincts, students' observations in previous rounds of the study, as well as discussions with precinct workers and high-ranking officials in the Los Angeles City Clerk's office and the Los Angeles County Registrar-Recorder's office. The checklist includes straightforward questions about the polling places, designed to be easy for the students to administer.3 Questions were concise, and the possible answers were almost always Yes/No or High/Medium/Low, depending on the category of the question, leaving little room for error on the part of the survey administrator. Research teams were encouraged to supplement their checklists in spaces provided with open-ended written comments and by using the disposable cameras provided to each team. As a further safeguard to ensure consistency in completing the checklist, two mandatory training sessions were conducted, one a week before Election Day and one on the morning the polls opened.4

In large part, the checklist surveys the physical conditions of the polling places, both inside and outside, and the visibility of the polling places to passersby. We asked whether flags or banners helped mark the location as a voting precinct, whether adequate outside lighting was present to illuminate the polling place at night, and whether the polling place had been previously used in an election or if it was a new location for voters. In addition, we wanted to determine how knowledgeable poll workers were with respect to voting rules and regulations such as the need for identification and the right to vote a provisional ballot (the complete survey is included as Appendix A).

Before the March 2, 2004, election, we acquired a complete list of polling places and addresses to be used within the city of Los Angeles and divided them into the forty-two equal zip code areas throughout the city. In addition to Los Angeles, we selected five neighboring communities to study as comparison sites. These included Compton, Inglewood, Beverly Hills, Santa Monica/Marina del Rey, and Bell Gardens/Huntington Park. There were 1,599 precincts in use in Los Angeles on Election Day, and student teams were sent to a random selection of 1,350 precincts. Pairs of students were assigned a random list of precincts within a zip code area or comparison site. Students were asked to complete twenty surveys

for an expected total of 840 precincts citywide, about 50 percent of all precincts used on Election Day in the city of Los Angeles. When the election had ended, the forty-two teams of students had completed 960 surveys, about 23 per team, resulting in a ± 2 percent confidence interval for our findings.⁵

During the student training sessions, we explained the relevance of the project to academics and practitioners, and we stressed how important it was that each team provide reliable data. We carefully explained to the students each of the twenty-nine questions on the checklist to ensure that all surveys were completed using the same guidelines. To maximize the completion rate. students were given their list of polling place addresses one week before the election and asked to map their routes so as to increase the odds that they would find each polling place to which they were assigned. In addition, each team had a camera and photographed something interesting among polling places in Los Angeles to better document the research and to prove that they had visited the precinct. On Election Day, we ensured that all student-teams were equipped with the complete address and name of the polling places to be surveyed and street maps of Los Angeles and surrounding communities.

Precinct Quality and Accessibility in Los Angeles

With more than 1.5 million registered voters in the city of Los Angeles, problems at even a small percentage of polling places can negatively affect a considerable number of voters. As noted above, our study focused on three areas of precinct quality that voters might encounter: (1) Are polling places easy to find? (2) Are polling places easy to use and comfortable? and (3) Are there any barriers to voting in polling places? In addition to marking yes or no on the checklist, students were asked to record noteworthy practices that they encountered during their research, and we include these observations below with the results.

Are Polling Places Easy to Find?

The first several queries were intended to assess how easy it was to actually find the polling place. The frequencies reported in Table 1 indicate that more than 20 percent of polling places did not have street addresses clearly posted outside, imposing costs on voters with limited time to track down the polling place. Only 60 percent were adjacent to a major street,

posing difficulties for voters using public transportation, While 69 percent of polling locations were described as "readily visible" from the street, one in ten was not visible and two in ten were only somewhat visible. Although all polling places receive flags and signs to display, about one-quarter of precincts did not have a flag or banner displayed in a way to help identify the location as a voting precinct. About one in four polling places did not have adequate outside lighting to illuminate the precinct for those citizens coming to cast a ballot in the evening. Finally, most polling locations were described as easy to find (84 percent), with only one in six locations described as somewhat or very hard to find. Students may have enjoyed an advantage on this point because they were asked to map out directions to the precincts, but prior to the election, voters also receive precinct addresses in their voter pamphlet and have an opportunity to look up directions. In full, the data reported here and the student observations below reveal variation in polling place quality across precincts.

Student observations included:

The polling place stood out and there were plenty of signs directing the voters toward the precinct.

Apparently relocated to Dunken Park. Couldn't get in, had to call desk, no relocation sign.

Had signs in red, white, blue, and balloons. Good parking,

The site was hidden behind various barriers and gates and could not be seen from the street.

It was a religious school. It had a sign that was very clearly posted that stated, "This property closed to the public." We took a picture of it.

Although signs were posted, there were two doors, both of which were closed.

"Beware of dog" sign was scary-it was right next to the "Polling Place Here" sign-did not know which to believe. No parking available. We saw two people drive away.

Very large parking lot-good!

The parking was all metered.

Had to get parking validated.

Filming a movie so lots of traffic, hard to get to

Too many stairs-wheelchair would never be able to get up there.

Are Polling Places Easy to Use and Comfortable?

The second general set of questions attempts to ascertain the ease of use and comfort of the polling places (see Table 2). One-third of polling places did not offer adequate parking, and about 20 percent were not fully handicap accessible. Both of these findings are particularly troubling given that they may impose

Table 1 Precinct Accessibility

	Yes	No	Somewhat
Address was in clear sight	77.9	22.1	
Adjacent to major street	60.6	39.4	
Readily visible from street	69.1	11.0	20.0
Flags or banners made visible	75.8	24.2	
Adequate outside lighting	76.5	23.5	
In your opinion, how easy			
was the polling place to find?			
Very easy	48.0		
Somewhat easy	36.3		
Somewhat difficult	12.2		
Very difficult	3.6		

barriers to accessing the polling place. Inside, there was wide variance in the size of the polling places and the availability of seating areas. While 19 percent of precincts were described as "very large," an additional 18 percent were found to be very small.6 Related, there were large discrepancies in the waiting area inside precincts, as evidenced in Table 2. Half of all polling places had considerable waiting areas with chairs and sofas or large standing areas available for voters; however, this stands in contrast to the other half of precincts in Los Angeles. Almost one in six precincts had no extra room, while another one in three had just a small standing area. Taken together, the figures reported below indicate wide variety in the comfort and ease of voting in Los Angeles.

Approximately 15 percent of polling places offered additional amenities such as coffee or donuts. However, almost two-thirds of the precincts surveyed did not have access to a restroom clearly designated. More troubling, we found that 12 percent of polling places did not have adequate lighting inside to read and mark the ballot. Although Los Angeles County transitioned away from punch card machines in 2004, the ballots appeared almost identical to ballots used previously and featured very small print and small circles to be marked with an ink pen. The difficulties in Florida in 2000 highlighted the importance of being able to accurately read and interpret the ballot to ensure that each vote is counted.

Although the first set of criteria demonstrated that not all precincts are equally visible and accessible across the city, this second set of criteria highlights considerable disparities inside the polling places themselves. Inadequate parking, poor lighting, small rooms, and lack of waiting areas impose costs to potential voters at approximately one out of four polling places in

Table 2 **Precinct Quality**

	Yes	N
Adequate parking nearby	67.3	32
Entrance handicap accessible	81.1	18
Restroom clearly marked	34.1	65
Interior well lit for reading	87.8	12
Additional amenities for voters	15.4	84
How small or large was the inside		
of the polling place?		
Very small	17.7	
Somewhat small	18.3	
Medium	26.6	
Somewhat large	18.7	
Very large	18.7	
What kind of waiting area was present?		
None	16.7	
Small standing area	33.4	
Large standing area	21.5	
Chairs/sofas	28.4	

Los Angeles, even as other polling places are large, have couches and serve coffee to waiting voters.

Student observations included:

Homeless people lying next to entrance.

Very posh and swanky; a Bel Air club with ocean view behind every voting booth. Fragrance smelled good.

Had a waiting area. Funny smell. It's a hotel, a small hotel with a small voting room. Smells like older people. No parking.

Funeral was taking place in the church. Polling place was in a building next to the church. Funeral blocked the entrance of the parking lot once the service was over. Police officer was very rude to people in the parking lot.

Terribly inaccessible, got lost, had to walk all over, people complained, barely marked. A woman coming out said they were disorganized.

Piano player in the lobby.

Big school, but the inspector was ill informed. A little scary. Swimming pool was tight!-Nice-looking backyard.

All workers are actors or in the biz, told us a story about Arnold voting here, one was a writer for the Tonight Show and told jokes.

Polling place was in a kitchen, had to walk through whole mission, homeless guy yelled at us as we walked by.

Are There Any Barriers to **Voting in Polling Places?**

A third set of questions checks for the presence of several potential barriers that may inhibit equal access to the ballot (see Table 3). These questions are wide ranging, varying from assessing the number of poll workers and available machines to checking if

Table 3 **Barriers to Voting**

	Yes	No	Don't Know
Precinct used previously	82.4	11.2	6.4
Poll worker lives nearby	68.1	31.2	0.7
All voting machines working	96.6	3.4	
Voter bill of rights posted	75.1	24.2	0.8
Four or more poll workers	70.0	30.0	
Need to show ID to vote	29.2	70.2	0.6
Can vote provisional ballot	91.1	3.5	5.3

poll workers ask potential voters to furnish identification or correctly inform potential voters about their right to cast a provisional ballot. The number of poll workers varied from precinct to precinct, as did the number of booths or machines available to potential voters. Table 3 reports that most polling places (70 percent) had four or more poll workers and that virtually all of the new inkblot voting machines were working correctly. Although we found that four out of five precincts used in 2004 had been used before (likely in 2002) as a polling place, 11 percent were reported to be new by the head poll worker, and in 6 percent of the cases, the head poll worker was uncertain if the precinct had been used before. Of the roughly 1,700 precincts citywide, 187 were new locations, leaving about 150,000 registered voters potentially unfamiliar with their new polling place.

When researchers asked the head poll worker if voters who were not listed on the rolls could vote a provisional ballot, more than 90 percent said yes, 3.5 percent said no, and 5 percent were uncertain. By state and federal law, any citizen who presents himself at a poll on Election Day has the opportunity to cast a provisional ballot if his or her name is not found on the voter rolls, and the provisional ballot is later checked at the county office to ensure that the citizen is a registered voter. To ensure that this option was available to all voters in California, Secretary of State Kevin Shelley required the "Voter's Bill of Rights," outlining this and other provisions, to be posted inside each polling place on Election Day. Despite this new requirement, 24 percent of all precincts did not have the voter rights posted inside the polling place. The Secretary of State of California instructs poll workers that no identification is necessary if the voter's name is correctly listed on the rolls. However, when researchers asked the head poll worker what form of identification voters needed to present before voting, a surprising 29 percent responded that some form of state identification was necessary. If poll workers at three in ten precincts in Los Angeles are improperly requiring potential voters to present identification, this may pose the single largest barrier to voting in the city.

Student observations included:

It was a predominantly Armenian area, yet none of the workers spoke Armenian. They had to bring in one guy who spoke Armenian to have him translate to a man who didn't

The inspector would not let us examine the area because he said we were soliciting. He was belligerent and we could

Nice people, made sure we got everything we needed.

The precinct coordinator did not let us interview the poll workers, stating that they don't have to answer our questions. After showing him the voter's bill of rights, he directed us to a number we could call to answer our questions. We were not disrupting their duties, as no one was voting at the time.

Inspector hostile, trying to insist that voter's bill of rights was posted and it clearly wasn't. Trying to tell us we were disturbing voters. We were not.

Very nice ladies, they gave us "I voted" stickers. They were very beloful

She wanted money for answering questions

Head poll worker said voters needed ID, fellow poll worker corrected him.

Need a driver's license, military I.D., or utility bill to vote. Asked for a California driver's license or a bill or a checking

Very friendly but said driver's license or voter registration card is required.

Did not know about provisional ballot.

There was an older woman who was complaining about the government and the poll workers were trying to get her to

Woman being challenged/Poll workers said people have been coming to wrong precinct all day. This poll is new.

Poll worker said a state worker took out two voters 'cause they weren't on list and didn't want them to vote provisional

Income, Race, Precinct Quality, and Voter Turnout

Precinct Differences by Income and Race

The findings above demonstrate that not all precincts in Los Angeles are created equal, and we turn now to assessing whether these differences are randomly distributed throughout the city or whether they are more likely to occur in certain parts of town. Using census tract data from the 2000 census, we overlaid each precinct with its corresponding census tract and provided neighborhood-level data on median income and racial/ethnic demographics. For income, we divide

precincts into three equal segments, low, medium, and high, where precincts averaging a median household income of less than \$30,913 are counted as low and those with median incomes of more than \$49,226 counted as high. For race and ethnicity, we divided all precincts into four equal categories within each of the four groups included-white, Latino, black, and Asian—and compare results for only those precincts in the highest range for each of the racial/ethnic groups. For example, precincts in the quartile "lowest white" range from 0 to 3 percent white, while precincts in the quartile "highest white" range from 65 to 91 percent white. Appendix B displays the full range for each of the race categories.

While previous scholarship on minority turnout has examined many facets related to black, Latino, and Asian American participation, including mobilization (Ramírez 2005, 2007; Michelson 2003; Shaw, de la Garza, and Lee 2000), immigration status and language (Tam Cho 1999; Pantoja, Ramirez, and Segura 2001), and the appeal of ethnic issues and candidates (Bobo and Gilliam 1990; Tate 1993, 2003; Pantoja and Segura 2004), none of these studies determined whether or not minorities are further disadvantaged by lower quality polling place locations. Tables 4 through 6 report the full results of our precinct survey by income and race. Given that our sample yields a ±2 percent margin of error, intergroup differences of more than 5 percent can be considered statistically significant and are noted with an asterisk. Among the accessibility criteria (Table 4), high-income and white precincts were more likely to have the precinct address posted in clear sight and more likely to have adequate outside lighting to illuminate the precinct location at night. For example, in heavily white precincts, 86 percent had the address in clear sight, compared to 75 percent in black and Latino precincts and 73 percent in Asian precincts. Furthermore, 80 percent of white precincts had outside lighting, compared to 68 percent of black precincts. Interestingly, precincts in Latino neighborhoods were the most likely to have flags or banners indicating the presence of a polling place.

With regard to parking and other markers of precinct quality, many differences surfaced along lines of income and race (Table 5). Once again, high-income and white precincts were the most likely to provide adequate parking nearby the precinct. While 75 percent of high-income precincts had adequate parking, just 61 percent of low-income precincts had accessible parking. Similarly, 72 percent of white precincts reported

Table 4
Precinct Accessibility by Income and Race

	Income				Race/Ethnicity				
Percentage Reporting "Yes"	Low	Medium	High	White	Latino	Black	Asian		
Address was in clear sight	76.7	73.6	83.2*	85.9	75.4	74.6	72.8*		
Adjacent to major street	62.9	63.3	55.6*	59.0	61.5	62.2	59.3		
Readily visible from street	70.6	68.3	68.6	68.4	67.4	70.3	70.5		
Flags or banners made visible	76.7	68.3	73.5	70.8	78.9	74.3	64.8*		
Adequate outside lighting	74.3	71.9	83.3*	80.1	74.0	68.3	73.8*		
In your opinion, how easy was the polling place to find?									
Very easy	52.7	43.3	48.0	46.0	47.4	54.1	44.1*		
Somewhat easy	34.4	35.4	39.1	38.3	38.4	30.7	35.2*		
Somewhat difficult	11.7	15.1	9.8	11.5	12.1	12.6	14.6		
Very difficult	1.3	6.3	3.2	4.3	2.2	2.6	6.1		

Note: Race/ethnicity categories refer to precincts that are in the top 25 percent of each race classification.

Table 5
Precinct Quality by Income and Race

		Income		Race/Ethnicity				
Percentage Reporting "Yes"	Low	Medium	High	White	Latino	Black	Asian	
Adequate parking nearby	61.0	66.0	75.0*	72.1	61.3	69.4	60.2*	
Entrance handicap accessible	76.2	81.9	87.3*	86.1	74.3	78.5	81.2*	
Restroom clearly marked	40.5	31.3	30.8*	26.1	40.3	37.3	31.9*	
Interior well lit for reading	88.4	85.8	89.4	87.5	86.5	88.4	88.4	
Additional amenities for voters	11.5	16.0	18.6*	19.4	10.3	13.8	13.7*	
How small or large was the inside of the polling place?								
Very small	16.6	19.2	17.5	20.8	16.5	15.2	15.5*	
Somewhat small	16.2	17.6	21.0	18.2	17.8	17.4	23.7*	
Medium	26.0	30.4	23.3	22.9	24.8	29.5	27.1*	
Somewhat large	22.1	18.5	15.6*	14.7	19.1	21.4	18.8*	
Very large	19.2	14.4	22.6	23.4	21.7	16.5	15.0*	
What kind of waiting area was present?								
None	15.6	15.3	19.2	22.4	15.0	16.3	11.5*	
Small standing area	33.1	36.2	31.0	26.8	31.4	38.5	39.9*	
Large standing area	20.8	23.1	20.5	22.4	22.6	24.3	20.2	
Chairs/sofas	30.5	25.4	29,4	28.5	31.0	19.9	28.4*	

Note: Race/ethnicity categories refer to precincts that are in the top 25 percent of each race classification.

parking nearby, compared to only 61 percent in Latino and 60 percent in Asian neighborhoods. The same trend existed for handicap accessibility, with low-income and nonwhite polling locations the least likely to have ramps and entrances handicap-ready. Inside, there was not a consistent pattern with respect to precinct size; however, some points are noteworthy. Asian precincts were the least likely to be described as "very large," while black precincts were the least likely to have waiting areas with chairs or sofas. Finally,

although a majority of precincts did not provide additional amenities to voters, such as coffee, donuts, or pianists in the lobby, high-income and white precincts were about twice as likely to do so.

Most troubling, perhaps, are the differences reported in Table 6 regarding barriers to voting. Once more, high-income and white precincts are positively advantaged on issues related to ease of voting and voting rights. For example, high-income and white neighborhoods are the most likely to use precincts that

^{*}Indicates difference of 5 percentage points or more.

^{*}Indicates difference of 5 percentage points or more.

Table 6
Barriers to Voting by Income and Race

		Income		Race/Ethnicity			
Percent Reporting "Yes"	Low	Medium	High	White	Latino	Black	Asian
Precinct used previously	81.9	78.3	86,9*	88.4	82.3	77.8	77.5*
Poll worker lives nearby	74.6	63.8	66.1*	65.8	73.0	75.9	67.1*
All voting machines working	97.4	94.2	98.1	98.3	96.5	98.6	94.7
Voter bill of rights posted	77.7	74.4	73.4	73.7	80.4	69.1	78.6*
Four or more poll workers	71.7	70.1	68.3	64.8	69.1	73.8	72.9*
Need to show ID to vote	35.4	30.2	22.0*	20.8	39.4	33.3	27.6*
Can vote provisional ballot	87.3	93.7	92.3*	94.4	88.9	88.4	90.0*

Note: Race/ethnicity categories refer to precincts that are in the top 25 percent of each race classification.

*Indicates difference of 5 percentage points or more.

have been used in past elections. If voters become well acquainted with their voting place, it is reasonable to assume they will have fewer difficulties getting there on Election Day. However, if the polling place location is different in every election, voters must learn the name and address of the new precinct and then find out where it is. When our student researchers asked the head poll worker about the need to present identification before voting, 35 percent in low-income precincts said they would be asked to furnish some form of identification, compared to 22 percent in high-income precincts. Similarly, about 21 percent of poll workers in white precincts said they required identification to vote, half the rate of Latino precincts, where 39 percent of poll workers required identification to vote. Black and Asian precincts also reported higher rates of poll workers asking for identification than white precincts. Along the same lines, poll workers in high-income and white precincts were more likely to be aware of the provisional balloting rules and to allow voters not listed on the rolls to cast a provisional ballot. Interestingly, Latino precincts were the most likely, at 80 percent, to have the voter's bill of rights posted, compared to black precincts, which were the least likely. The results indicate that the costs of voting are not borne uniformly across all of Los Angeles' diverse neighborhoods.

Precinct Differences and Voter Turnout

To assess the impact of precinct accessibility and quality on voter turnout, we matched aggregate Election Day turnout percentages for each precinct from the Los Angeles County Statement of Votes Cast by Precinct, available on the county's Web site. The turnout rate purposely excludes absentee ballots, and among the precincts in our study, the mean Election

Day turnout was 27.60 percent and the median was 27.43 percent for the March 2, 2004, primary.9 It is important to keep in mind that most of the variance in the decision to vote is being accounted for by other individual-level variables, such as interest in politics, education, income, age, and race, that have been well documented in the voluminous scholarship on turnout (e.g., Campbell et al. 1960; Wolfinger and Rosenstone 1980; Rosenstone and Hansen 1993). Here, we narrow our focus to the potential demobilizing costs associated with precinct accessibility and quality while still controlling for some demographic factors. We argue that precinct quality characteristics have both an immediate and a long-term effect on decreasing turnout. In the specific election at hand, voters may be deterred from voting if they cannot find their polling place or if they cannot find adequate parking. Over time, a voter may be deterred if he or she does not find the polling place very accommodating or has a negative experience voting. Furthermore, if a polling place changes locations from one election to the next, the voter may lose interest in continually learning where the polling place is or perhaps may show up to the wrong polling place.

We look to other scholarship for guidance in how to gauge turnout data. In their study, Gimpel and Schuknecht (2003, 473) note, "While increasing the accessibility of precinct locations may not result in 30 or 40 point rise in participation, we would consider it a significant and policy relevant finding if the accessibility made the difference of between 0.3 and 1 point in the level of turnout." We have chosen to adopt the same standard to evaluate means comparisons for turnout rates across precincts.

Testing the effects of precinct quality on voter turnout without accounting for income and race, our two main control variables would be problematic. Indeed, the findings of the previous section reveal that precinct quality

is correlated with income and race. Furthermore, bivariate correlation analysis indicates that most of our independent measures of precinct quality and accessibility are highly collinear, suggesting that a scale of precinct quality alongside demographic and partisan controls is the most appropriate way to test our hypothesis. In addition to a ten-point scale of precinct quality, we include one additional independent measure from our checklist-whether the precinct had been used before-and label this measure precinct stability. While there are many aspects of a voting precinct that might dampen turnout, if a voter becomes familiar with his or her precinct location because it has been used year after year, this alone may have a significant impact on turnout. Thus, our regression equation for predicting voter turnout at the precinct level is

$$Y = \beta 1 (\text{income}_x) + \beta 2 (\text{Latino}_x) + \beta 3 (\text{black}_x) + \beta 4 (\text{Asian}_x) + \beta 5 (\text{quality}_x) + \beta 6 (\text{stability}_x) + \beta 6 (\text{indep}_x) + \text{constant}.$$
 (Γ)

Our key independent variable, precinct quality, is constructed based on eight key items in our checklist and ranges from 0 to 10.10 The questions reflect many aspects of the precinct that a voter will encounter on Election Day. These items are the following:

Were any signs, flags, or banners visible from outside, such as "yote here"?

Was adequate parking space available adjacent to the polling place?

Was a restroom or restroom sign clearly marked inside the precinct?

Generally speaking, was the interior of the polling place well lit for reading? Were there any additional amenities available to voters (such

as coffee, donuts, snacks)?
Was there adequate outside lighting to make the precinct vis-

was there adequate outside righting to make the precinct visible at night?

How many poll workers were present at the time of the visit?

Did all voting machines seem to be working properly?

The results of our regression are presented in Table 7 and uncover that even controlling for income, race, and partisanship (here measured as percentage Independents), precinct quality and precinct stability significantly affect voter turnout. Consistent with numerous studies on turnout, income has a positive effect and percentage minority has a negative effect on aggregate turnout (Campbell et al. 1960; Wolfinger and Rosenstone 1980; Rosenstone and Hansen 1993; Verba, Schlozman, and Brady 1995). As we anticipated, precinct quality does have a positive impact on

voter turnout, and the substantive impact is rather

Table 7 Ordinary Least Squares (OLS) Regression Results Predicting Precinct Level Voter Turnout

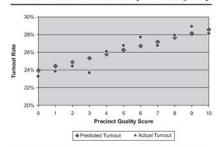
Variables	Beta	Coefficient (SD)
Income	.0010	.0001 (.0002)
Percentage Latino	6225	1579 (.0101)**
Percentage black	2926	1153 (.0153)**
Percentage Asian	.0313	.0265 (.0281)
Precinct quality	.0565	.0034 (.0017)*
Precinct stability	.0589	.0122 (.0060)*
Percentage Independent	3289	4788 (.0509)**
Constant	-	.4224 (.0251)**
N		879
F		84.69
Adj. R ²		.4834

*p < .050, **p < .001.

large. The unstandardized coefficient (reported in column three) for precinct quality indicates that a one-unit shift in the quality results in a 0.34 increase in voter turnout, so that a ten-unit shift in precinct quality from lowest to highest quality should result in a boost of 3.4 points to that precinct's voter turnout rate. Similarly, a precinct that has been used before will see turnout about 1.2 points higher than a newly used precinct, all other things being equal. That our measure of precinct stability is significant, even when separately controlling for various components of precinct quality, is remarkable and speaks to the importance of regularly established precinct locations so that voters can become familiar with their neighborhood polling place.

To depict the substantive impact of these differences, we calculated the predicted voter turnout for precincts of varying qualities while holding all other values at their mean. Figure 1 plots the predicted turnout rate for precincts at each step on the ten-point quality scale, as compared to the actual mean turnout level for precincts based on their quality score. Overall, the predicted regression line is a fairly accurate fit to the observed data. Next, Figure 2 interacts precinct quality with precinct stability to generate the two extremes of our precinct study: (1) low-quality precincts being used for the first time and (2) highquality precincts that have been used in an election before. Precincts described as "lowest" quality generate an expected turnout rate of 24.0 percent, compared to 28.6 percent for "highest" quality precincts. This difference of 4.6 percentage points among polling place voters could easily alter the outcome close elections within the city of Los Angeles.

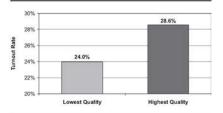
Figure 1
Predicted vs. Actual Turnout by Precinct Quality



Conclusion

The Voting Rights Act was thought to have eliminated most barriers to voting, but irregularities in practices at some precincts in Florida during the 2000 election called into question whether new barriers to the ballot box have been erected. These barriers might include lack of signage or poor visibility, lack of adequate parking, no outside lighting, insufficient or poorly trained poll workers, or lack of stability in precinct location. Given that many citizens do not accurately assess the costs and benefits of voting, even small increases in the costs can lead to large decreases in voter turnout. This research has examined precinct accessibility and quality throughout Los Angeles and found that voters encounter wide variation in the quality of their assigned polling places. More troubling, the findings here suggest that lowquality precincts are not randomly distributed across the city and instead are more likely to be found in

Figure 2
Expected Difference in Turnout between
Lowest and Highest Quality Precinct



Note: Based on ordinary least squares (OLS) unstandardized β coefficients for the equation $Y=\beta 1 (\mathrm{income_{neckun}}) + \beta 2 (\mathrm{Latino_{neckun}}) + \beta 3 (\mathrm{Black_{neckun}}) + \beta 4 (\mathrm{Asia_{neckun}}) + \beta 5 (\mathrm{quality}) + \beta 6 (\mathrm{stability}) + \beta 7 (\mathrm{independent_{neckun}}) + \mathrm{constant}.$

low-income and minority neighborhoods. These communities are already likely to experience lower rates of voter turnout, and the existence of many lowquality polling places in these precincts imposes costs that further depress turnout, even controlling for income and race. In this study, we have highlighted several underappreciated costs of voting in Los Angeles, but additional research is needed to determine what other barriers to voting exist in precincts across the United States. Recent research in New York (Escobedo and Sepulveda 2006), San Antonio (Manzano 2005), Atlanta (DeWitt et al. 2005), and Miami (Moreno and Flores 2005) demonstrates that precinct quality is a significant issue in many major cities across the country. In the meantime, policy makers and election officials should take whatever measures are practical to ensure that all polling places are equally visible, accessible, and user-friendly.

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Appendix A	
March 2, 2004, Polling Place Quality Checklist	
Team Name Time of Day	
Precinct No Camera Exposure No	
Address	
 Was the address of the polling place in clear sight on the outside of the precinct? ☐ Yes ☐ No 	
2) Was the correct address given for the polling place? ☐ Yes ☐ No	
3) How easy was the polling place to find? ☐ Very Easy ☐ Somewhat Easy ☐ Somewhat Difficult ☐ Very Diffic	rult
4) Was the polling place adjacent to a major street (4 lanes/divided traffic)? ☐ Yes ☐ No	
5) Was the polling place readily visible from the street? ? Yes □ Somewhat □ No	
6) Were any signs, flags, or banners visible from outside, such as "vote here"? ☐ Yes ☐ No	
7) If yes, did the sign make it obvious that this was a polling place? Yes No	
3) Was adequate parking space available adjacent to the polling place? ☐ Yes ☐ No 9) Was the entrance to the polling place handicap (wheelchair) accessible? ☐ Yes ☐ No	
	Lantine.
10) Describe the general appearance and accessibility of the outside of the polling place. Provide any details you may affect citizens' access to the polling place or willingness to vote:	neneve
11) Generally speaking, how small or large was the inside of the polling place? ☐ Very Small ☐ Somewhat Small	
☐ Medium ☐ Somewhat Large	
☐ Very Large	
12) What kind of waiting area was present? ☐ None ☐ Small Standing Area ☐ Large Standing Area ☐ Chairs/Sot	tas
13) Was a restroom or restroom sign clearly marked inside the precinct? ☐ Yes ☐ No 14) Generally speaking, was the interior of the polling place well lit for reading? ☐ Yes ☐ No	
14) Venerany speaking, was the interior of the poining place well in for reading? □ 1es □ No 15) Were there any additional amenities available to voters (such as coffee, donuts, snacks)? □ Yes □ No	
15) were there any additional amenines available to voicis (such as correct domais, shacks): 15 Pro 15 Pr	
16) Generally speaking, when you visited the precinct, how safe did you feel? Very Somewhat Not Safe	1108
17) Was there adequate outside lighting to make the precinct visible at night? \square Yes \square No	LIL
(NOTE: If you visit during daylight hours, inspect outside area for light fixtures; if necessary, ask this auestion of to	he head
poll worker.)	
18) How many poll workers were present at the time of the visit? None One Two Two Tree Four or More	re
19) Record the following demographic information for each poll worker:	
A) Worker 1: ☐ Male ☐ Female ☐ White ☐ Black ☐ Latino ☐ Asian ☐ Under 40 ☐ 40–65 ☐ Over 6.	5
B) Worker 2: □ Male □ Female □ White □ Black □ Latino □ Asian □ Under 40 □ 40-65 □ Over 6:	5
C) Worker 3: ☐ Male ☐ Female ☐ White ☐ Black ☐ Latino ☐ Asian ☐ Under 40 ☐ 40–65 ☐ Over 6:	
D) Worker 4: ☐ Male ☐ Female ☐ White ☐ Black ☐ Latino ☐ Asian ☐ Under 40 ☐ 40–65 ☐ Over 6:	
E) Worker 5: ☐ Male ☐ Female ☐ White ☐ Black ☐ Latino ☐ Asian ☐ Under 40 ☐ 40-65 ☐ Over 6:	
F) Worker 6: ☐ Male ☐ Female ☐ White ☐ Black ☐ Latino ☐ Asian ☐ Under 40 ☐ 40–65 ☐ Over 6:	5
20) How many polling booths/voting machines were available to voters?	
21) Did all voting machines seem to be working properly? ☐ Yes ☐ No	
22) About how many people were waiting in line to vote when you visited? \Box Less than $10 \Box$ $11-25 \Box$ $26-50 \Box$ 0	Over 50
23) Ask the head poll worker, "Do you live here in this polling place jurisdiction?" Yes No DK	
24) Ask the head poll worker, "Was this polling place used in a previous efection"? ☐ Yes ☐ No ☐ DK	
25) Ask the head poll worker, "Other than English, what other languages do poll workers speak? (List all)	
26) Ask the head poll worker, "If I live in this neighborhood, what form of ID do I need to vote here when I check ☐No ID needed ☐ Some ID is needed ☐ Poll worker doesn't know	
27) Ask the head poll worker, "If somebody shows up to vote, but for some reason they are not listed on the voter di	rectory
can they still vote or do they need to be listed?"	
☐ Yes, they can vote ☐ No, need to be listed ☐ Depends/Maybe ☐ DK	
23) Was the "Voter's Bill of Rights" clearly posted inside the polling precinet? ☐ Yes ☐ No ☐ DK	
29) Additional observations about the polling place: (Be as specific as possible)	
If you have any questions during the day, please call the Research Center Offices Phone: (XXX) XXX - XXXX	

Appendix B Distribution of Race and Ethnicity Quartiles

White	Latino	Black	Asian	
Quartile I "Lowest"	.0003	.0111	.0002	.0002
Quartile 2 "Med low"	.0429	.1235	.0304	.0306
Quartile 3 "Med high"	.3064	.3664	.0513	.0712
Quartile 4 "Highest"	.6591	.65–.99	.1592	.1356

Notes

- 1. In addition to the Bundy 2003 article, some policy reports have been prepared on disabled voters' access to their polling place by state officials and some nonprofit organizations-see the 2002 GAO Report, "Voters With Disabilities," and Schur et al. (1999).
- 2. Before this study in March 2004, two previous waves of the precinct quality study were conducted in Los Angeles. In the first wave, March 2003, 280 precincts were visited. In the second wave, October 2003, 450 precincts were visited. In the third wave, March 2004, 960 precincts were visited. Because of the larger sample size in the third wave, we use the March 2004 data set, although the general findings seem to be consistent across election
- 3. After the completion of the research project, students were asked to fill out a questionnaire about their experiences. Overall, very few students reported problems interpreting the survey or
- assigning responses to the questions on the checklist.

 4. In addition, we checked a handful of random precincts and talked with poll workers to ensure that students had visited the precinct earlier in the day.
- 5. Calculated on the basis of an assumed question with two possible answers (e.g., yes/no) with 50 percent answering in each category.
- Several of the precinct measures are inevitably somewhat subjective (i.e., how large a precinct or how adequate the lighting). However, all student researchers were trained in each of the two sessions on how to evaluate these measures and were given concrete examples regarding how to assess each response category.
- 7. The quartile approach is used instead of an arbitrary cut point of .75 because there are so few precincts that are more than .75 black and Asian. In fact, there are only twenty-nine precincts that are .75 or more black and only five that are .50 or more Asian.
- 8. Results of voter turnout by precinct were downloaded a few days after the election from the following Web site: http://polling2.co.la.ca.us/posttally1213/bigframe.ht
- 9. Overall, 24 percent of all votes were cast using absentee ballot in the city of Los Angeles. One hypothesis might be that low-quality precincts push voters to use absentee ballots; however, this was not the case. In "low-quality" precincts, 18 percent of votes were cast using absentee ballots, compared to 28 percent in "high-quality" precincts.

 10. These eight items were selected because they all demonstrates.
- strated a bivariate relationship with turnout, and as a scale they group together nicely. The Cronbach's alpha for the scale is .504, quite high given the inclusion of eight variables

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Waiting to Vote

Charles Stewart III and Stephen Ansolabehere

ABSTRACT

We review evidence that long lines waiting to vote in the 2012 presidential election were costly and disproportionately appeared in certain regions of the country, in cities, and among minority voters. We argue that the field of queuing theory helps to frame thinking about polling place lines. Because addressing the problem of long lines requires precise data about polling place dynamics, we conclude by suggesting new approaches to research that are necessary to identify the most effective cure for long lines.

ATTING IN LINE TO VOTE¹ is the most visible sign of administrative frictions of managing elections. The visibility of long lines makes them a convenient symbol for those who seek to improve election administration. However, absent comprehensive, reliable information about lines—where they appear, who endures them, and strategies to mitigate them—it is easy to flail at the problem without making much progress. In this article, we lay the groundwork with some evidence about where long lines occur and what is thought to cause them. We emphasize four points:

First, long lines are costly.

Second, long lines are not universal.

Third, the field of queuing theory helps frame thinking about polling place lines.

Fourth, new approaches to empirical research in

Fourth, new approaches to empirical research in polling places are needed to identify the most effective cures for long lines.

THE COSTS OF LINES

Long lines present three categories of problems in American elections: they discourage voting,

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lower voter confidence, and impose economic costs on voters.

First, long lines discourage some from voting. Responses to the 2012 Voting and Registration Supplement (VRS) of the Current Population Survey suggest that over 500,000 eligible voters failed to vote because of a list of polling place problems that include long lines—inconvenient hours or polling place location, or lines too long.

Second, long lines reduce voter confidence in elections. Responses to the Survey of the Performance of America Elections (SPAE) suggest that

¹This article makes use of data from the Cooperative Congressional Election Study (CCES) and the Survey of the Performance of American Elections (SPAE). Ansolabehere and Stewart are the principal investigators of the CCES and SPAE, respectively. The SPAE was undertaken with the financial support of the Pew Charitable Trusts, which bears no responsibility for the analysis contained herein. Both the CCES and SPAE are Internet surveys and both ask an identical question concerning the amount of time voters waited at the polls. In 2012, the CCES interviewed 54,535 adults, 39,675 of whom voted; the SPAE interviewed 10,200 registered voters, 9,336 of whom voted. The CCES asks fewer questions about election administration, but has a larger sample size that is distributed across the nation in proportion to population. The SPAE focuses its questions entirely on election administration. with a smaller sample size distributed within states in proportion to population. Depending on the nature of the analysis, one survey will be more appropriate to use than the other. In some cases, specifically estimating waiting times within states, we can combine the two surveys to create more precise estimates

waiting a long time to vote reduces the confidence voters have that their votes are counted. For instance, among Election Day voters in 2012, 68% of those who waited ten minutes or less to vote stated they were very confident their vote was counted as intended, compared to 47% of voters who waited over an hour.² Moreover, voters who themselves experienced long lines were also less likely to believe that votes in their county, their state, and nationwide were counted as intended (Stewart and Ansolabehere 2013, Table 1).

Third, long lines impose monetary costs on voters. A simple way to produce a ballpark estimate of monetary costs is to multiply the total number of hours waiting in line by average hourly earnings in 2012, as reported by the U.S. Bureau of Labor Statistics. Doing so yields an estimated economic cost of \$544.4 million in election line-waiting in 2012, which is about one-fifth the budget of local election offices in 2012 (Stewart and Ansolabehere, pp. 4–5).

BASIC FACTS ABOUT LINES

We now turn to the evidence about who waits in line, and how long they wait, using answers to two major academic surveys, the Cooperative Congressional Election Study (CCES) and the SPAE.

Relying on responses to the 2008 and 2012 CCES, Table 1 reports the distribution of responses to the question, "Approximately, how long did you have to wait in line to vote?"

Most voters in the past two general elections did not wait very long to vote. Roughly one-third report not waiting at all, and roughly two-thirds report waiting ten minutes or less.

For those who wait more than one hour, the waits can be quite long. Among those waiting more than an hour in these two presidential elections, the average reported wait time was 109 minutes in 2008 and 110 minutes in 2012.

The factor that is associated with the biggest differences in wait times is the voter's state of residence. According to estimates derived by combining responses to the CCES and SPAE, average wait times in 2012 ranged from 1.5 minutes in Vermont to 39.2 minutes in Florida. The table in Appendix A reports the state estimates, along with 95% margins of error. Regionally, the shortest waiting times tend to occur in the western half of the

2008 36.8% 37.3% Not at all Less than 10 minutes 10-30 minutes 19.0% 18.4% 31-60 minutes 10.3% 8.6% More than one hour 6.3% 3.9% 13.3 Average (min.) 16.7 95% margin of error (min.) 0.1 0.1 18.836 30,124

TABLE 1. AVERAGE WAITING TIMES TO VOTE, 2008 AND 2012

Source: Cooperative Congressional Election Study (CCES), 2008 and

country and in the northeast, while the longest waits tend to occur in the lower eastern seaboard.

Waiting times also vary within states. In Florida, for instance, average estimated wait times range from 5.7 minutes in Marion County (Ocala) to 136.6 minutes in Lee County (Ft. Myers).³

The great variation across states suggests there are state-specific factors, such as laws, regulations, and state norms, which influence how long voters wait to vote. The great variation within states suggests that there is further influence of demographics and local administrative practices in determining line lengths at the polls.

State wait times are also persistent. There is remarkable consistency in wait times at the state level, comparing 2008 and 2012. This is illustrated in Figure 1, where we plot the average wait time by state in 2012 along the y-axis, and the 2008 average along the x-axis. (The axis scales are logarithmic, which aids in the legibility of the individual data points.) States with long wait times in 2012 generally had long wait times in 2008. With some exceptions, if one wanted to predict which states would have long wait times in 2012, the best place to start would be to identify those states with long wait times in 2008.

State persistence is important for thinking about how to tackle the problem of long lines. In the wake of the long lines in 2012, many commentators and election officials pointed out factors that were unique to the 2012 election as the causes. The

²See Sances and Stewart 2014. In a multivariate statistical analysis that adds controls for partisanship and state of residence of the voter, the relationship reported here, between voter confidence and wait times, remains.

⁵The 95% confidence intervals are 1.6 minutes for Marion County and 11.4 minutes for Lee County.

⁴See Stein and Vonnahme (2014).

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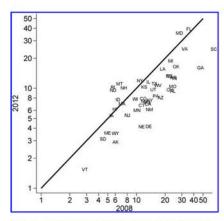


FIG. 1. Average wait time at the state level, 2012 and 2008. Source: Cooperative Congressional Election Study (CCES) and the Survey of the Performance of American Elections (SPAE), 2012.

best example is Florida, which saw significant changes in its election law which, in hindsight, seem ripe to have caused longer lines at the polls, such as cutting the early voting period significantly and lengthening the text on the ballot to describe referenda. If these are the explanations for Florida's long lines in 2012, what is the explanation for Florida's long lines in 2008, when they were not factors?

Long lines are also unevenly distributed demographically, as the following statistics, drawn from the CCES, illustrate:⁵

- Mode of voting. Early voters in 2012 waited an average of 18 minutes, compared to 12 minutes for Election Day voters.⁶
- Race of voters. Minority voters waited longer to vote than white voters in 2012. White voters waited an average of 12 minutes to vote, compared to 24 minutes for African American voters and 19 minutes for Hispanic voters.
- 3. Population density. Voters in densely populated neighborhoods wait longer to vote than voters from sparsely populated areas. Respondents to the CCES who lived in the least densely populated ZIP Codes waited an average of 6 minutes to vote, compared to 18 minutes for residents of the most densely populated ZIP Codes.⁷

QUEUING THEORY AND ELECTION LINES

The scientific discipline that analyzes the general problem of waiting in line is queuing theory, taught at business and engineering schools throughout the country. In its simplest expression, queuing theory can be applied to the problem of long lines at the poll. Unfortunately, only a handful of professional students of queuing, from academia or the business world, have attacked the issue of queuing in the context of elections.

Using a simple set of mathematical tools, knowledge about the design of the system (e.g., how many service stations are in place) and assumptions or knowledge about inputs (e.g., how frequently new customers arrive), it is possible to predict ahead of time quantities such as the average wait in the queue, the average length of the queue, and the number of customers the system can handle in a given unit of time.

Queuing models that assume there is a single bottleneck in voting—either at the check-in table or the voting booth—have motivated the two most direct applications of queuing theory to the issue of polling places—studies by Allen and Bernshteyn and by Edelstein and Edelstein that were cited above. These studies have provided an analysis of waiting times in Franklin County (Columbus), Ohio, in light of the allocation of equipment to precincts (Allen and Bernshteyn) and a

⁵Full multivariate analysis associated with this series of bivariate relationships may be seen at Stewart and Ansolabehere (2013, appendix 2).

⁶This difference remains when we control for the state in which the respondent lives. Also see Stein and Vonnahme (2014).

⁷This analysis was performed, first, by merging population density data to the CCES, using ZIP Code, and then dividing the sample into equally populated quarters, or quartiles. Respondents from the least densely populated areas lived in ZIP Codes with a population density of 75 persons per square mile or less. Residents from the most densely populated areas lived in ZIP Codes with a population density of 2,739 persons per square mile or more. This is related to Kimball and Baybeck's (2013) findings concerning jurisdiction size and election administration.

⁸A (relatively) accessible introduction to queuing theory may be found in Chapter 4 of the online version of Larson and Ondoni (1981). available at http://web.mit.edu/urban_or_book/www/book/chapter4/contents4.html>.

⁹But see Allen and Bernshteyn (2006); Edelstein and Edelstein (2010); Olabisi and Chukwunoso (2012); Yang et al. (2012); Yang et al. (2009); Belenky and Larson (2006); Samuelson et al. (2007); Yang et al. (2014); Buell (2013).

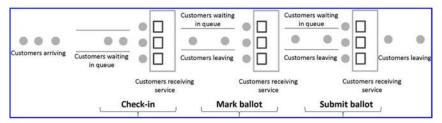


FIG. 2. Queuing in a polling place.

method for allocating voting machines to precincts (Edelstein and Edelstein).

Research papers such as these are a promising start of the application of queuing theory to the field of election administration. Still, the actual complexity of even the simplest polling site is much greater than what has generally been modeled to date. Most importantly, three major services are provided at each polling place, not one: checking in (including verifying one's identity and receiving the proper ballot), marking the ballot, and submitting the ballot for counting. Thus, even at its simplest, the typical in-person voting station (either Election Day or early) should be described using a figure such as the one in Figure 2, in which the issue is not managing one queue, but three related queues, in which departures from one feed the next.

A fundamental observation that emerges from Figure 2 is the potential cascading of problems "downstream." For instance, a delay in scanning ballots, which is part of submitting ballots at the end of the process, can produce a long line of people with marked ballots who wish to leave the polling place, but can't. This, in turn, can lead managers of the polling station to restrict access to check-in, to preserve order at the voting booths and the checkout tables. Lines accumulate at the door, even though the bottleneck is at the end of the process.

One useful tool for exploring the interactive effect of the multiple bottlenecks at the polling place is a simulation program developed by Mark Pelczarski, originally for use by the 2012 Obama campaign, an updated version which was posted on the website of the Caltech/MIT Voting Technology Project in the hopes that tools such as this could help local officials allocate their election resources more effectively.¹⁰ Such tools take as inputs data

that election officials usually have at their fingertips, such as the number of check-in stations and voting booths at each precinct, and information they can easily estimate, such as how long it takes to check-in or cast a ballot, and estimate average wait times at precincts, given the input parameters.

MITIGATING LONG LINES

All of the strategies to mitigate long lines can be thought of in terms of the simple queuing theory schematic sketched in Figure 2. Leaving aside the issues of ensuring that the capacities within the specific polling place service points are properly balanced, and applying the *ceteris paribus* proviso, lines will be lowered if (1) the number of voters coming to a polling place is reduced, (2) the number of service points is increased, or (3) average transaction times are reduced. The following categorize various policy proposals that have been put forward as means to improve the problem of line lengths under these topics. ¹¹

Reduce the number of voters coming to the polling place

- Increase opportunities to vote by mail, thus reducing the total number of people using all forms of in-person voting.
- Increase opportunities to vote early in-person, removing pressure from traditional precincts.

¹⁰ http://web.mit.edu/vtp. More pared down tools, developed by Stephen Graves and Aaron Strauss, are also hosted on the site.

¹¹These proposals draw heavily on Levitt (2013). See the Levitt article for a longer list of proposals than the one presented here.

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 Make Election Day a holiday, allowing for arrival times to be smoothed out during the day at traditional polling places.

Increase the number of service points

- · Increase the number of precincts.
- · Increase the number of poll workers.
- · Increase the number of machines.
- Favor paper balloting over electronic voting machines.

Reduce average transaction times

- · Increase information to voters.
- Increase the functionality of electronic poll books.
- Decrease the length of ballots.

Space is another constraint that is rarely high-lighted, but in the context of trying to streamline operations, it could be critical. Nearly all physical polling places are located in repurposed space. According to the 2012 SPAE, 32% of Election Day voters voted in school buildings, 22% in churches, and 16% in community centers, with the remaining 30% of voters using a hodgepodge of police/fire stations, libraries, stores, and private residences; for early voting, 44% voted in government buildings such as court houses and city halls, 16% in libraries, and 14% in community centers. The important thing to note is that these are not standardized spaces, and it may not be possible to configure many of them optimally to reduce service times.

Returning to the list of proposed solutions to reduce the length of lines, it is important to reiterate that very little empirical evidence has been produced in the scholarly literature to demonstrate that implementing them in the field will actually reduce lines. The fact that there is only a tiny number of empirical studies that examine correlations between the capacity of individual polling places, on the one hand, and voter experience, on the other, suggests the difficulty in knowing precisely what it would take, in terms of the expenditure of dollars for additional equipment or the redistribution of existing equipment, to mitigate the problems that do exist.

To help overcome the problem caused by a dearth of policy-relevant empirical research aimed at fixing the long-line problem, we identify two barriers that must be overcome by researchers in this field.

First, there must be greater attention to detailed analysis of polling place dynamics. Queueing the-

ory identifies the source of line-causing problems in the transactions that occur at individual checkin tables, voting machines, and ballot scanners. Thus, the analysis must be at the point-of-service; even analysis at the precinct-level may not be granular enough to diagnose and solve problems that lead to long lines.

Second, there must be greater attention to actual experimentation, in order to tell what works. The observational data that are currently available—for instance, the number of polling places deployed across a county—are produced by very complicated, interrelated decisions made by local election officials. This means that the tools that might traditionally be used to study the "causes" of long lines will be blunt instruments without very good measures of confounding effects measured at a highly disaggregated level.

CONCLUSIONS

The previous section reviews a list of the most common recommendations that have been proffered as solutions to the problem of long lines. Unlike post-2000, where research using existing data established a clear pattern that relate the use of antiquated voting machines to increased "lost votes," there is no single, high-impact solution to long lines that emerges from existing research—and certainly nothing that seems to apply everywhere.

It seems undoubtedly true that, *ceteris paribus*, if a state or locality were to reduce the number of voters coming to polling places, increase the number of service points, and decrease transaction times, lines would be shortened. However, the cost of these proposals is unknown, and more to the point, the effect of these proposals measured on a per-minute-reduced basis has yet to be quantified.

Therefore, while there may be some consensus solutions to local and state problems with long lines, much work still needs to be done to establish a basis for making changes that may seem less obvious, or for understanding trade-offs across competing values. We conclude this article by making some observations about how the required fact base might be established, building off the evidence that already exists.

- 1. The "line problem" consists of two parts, *chronic* long lines and long lines due to *one-off events*.
- 2. Chronic long lines appear to beset only a handful of states and counties. Research that compares

states that are similar demographically, but which have significantly different average wait times, would advance our understanding of how laws and practices facilitate expeditious service at polling places. (A wide-ranging comparison of California and Florida—states with similar demographics and ballot lengths but dramatically different average wait times—would seem the logical place to start.) Even in states with short average waiting periods, urban areas can still have long lines. Understanding the chronic challenges of urban areas appears to be a distinct area where more research is needed.

- 3. All jurisdictions can be prone to emergencies that cause specific precincts to have long lines, and all jurisdictions could be helped by gaining access to better information about service times, to aid in a process of continued improvement. The Election Assistance Commission (EAC) and professional associations are well positioned to facilitate the sharing of best practices among election officials, as they cope with the inevitable service crises on Election Day.
- 4. The EAC can provide a helpful role in supporting the research on voters' experiences and the extent and causes of line problems. It is within the EAC's mandate to report on the progress of state and local election officials in improving the customer service provided to voters in polling places, and to develop resources on the management of lines that can assist counties that have chronic line problems.

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APPENDIX A

Table A. Average Wait Times by State, 2008 and 2012

		2008		2012			2008		2012
State	Wait	95% m.o.e.ª	Wait	95% m.o.e.ª		Wait	95% m.o.e.ª	Wait	95% m.o.e.ª
Alabama	21	5.5	10	2.4	Montana	6	2.1	12	5.2
Alaska	5	1.7	3	1.2	Nebraska	10	3.2	4	1.1
Arizona	15	4.5	8	2.9	Nevada	10	2.4	8	1.3
Arkansas	21	4.7	13	2.4	New Hampshire	6	1.7	11	2.2
California	11	2.6	7	0.8	New Jersey	7	1.5	5	0.7
Colorado	10	4.1	8	2.7	New Mexico	12	2.9	6	1.4
Connecticut	10	23.	7	1.6	New York	9	1.3	12	1.5
Delaware	12	3.2	4	1	North Carolina	19	2.9	13	1.4
D.C.	28	9.8	37	7.5	North Dakota	5	1.9	10	7.5
Florida	31	3.5	39	4	Ohio	19	2.7	10	1.3
Georgia	40	5.8	16	2	Oklahoma	22	4.9	17	2.7
Hawaii	5	1.6	7	2	Oregon	na	na	na	na
Idaho	6	1.8	8	1.9	Pennsylvania	14	1.7	8	1
Illinois	12	1.8	12	2.2	Rhode Island	5	2	11	2.2
Indiana	22	3.6	13	2.3	South Carolina	56	7.7	25	3.8
Iowa	5	1.5	6	1.8	South Dakota	4	1.7	3	1.2
Kansas	10	2.3	11	2	Tennessee	19	3.6	13	1.7
Kentucky	12	2.6	8	1.5	Texas	13	1.4	11	1.1
Louisiana	16	3.5	16	3	Utah	13	3.3	10	2
Maine	4	1.3	4	1.1	Vermont	2	1.2	2	0.7
Maryland	24	4.3	36	4	Virginia	28	4.6	25	2.5
Massachusetts	6	1.2	7	1.2	Washington	na	na	na	na
Michigan	20	3.5	19	2.3	West Virginia	14	3.4	11	2
Minnesota	9	2	6	1	Wisconsin	8	1.6	8	1.4
Mississippi	11	2.9	7	1.4	Wyoming	5	2	4	1.2
Missouri	20	3.7	11	1.8	-				

Oregon and Washington are excluded because they are vote-by-mail states.

Source: Cooperative Congressional Election Study (CCES) and the Survey of the Performance of American Elections (SPAE), 2008 and 2012.

"Margin of error.

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Race, Shelby County, and the Voter Information Verification Act in North Carolina

Michael D. Herron

Daniel A. Smith

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RACE, SHELBY COUNTY, AND THE VOTER INFORMATION VERIFICATION ACT IN NORTH CAROLINA*

MICHAEL C. HERRON** & DANIEL A. SMITH***

ABSTRACT

Shortly after the Supreme Court in Shelby County v. Holder struck down section 4(b) of the Voting Rights Act (VRA), the State of North Carolina enacted an omnibus piece of election-reform legislation known as the Voter Information Verification Act (VIVA). Prior to Shelby, portions of North Carolina were covered jurisdictions per the VRA's sections 4 and 5—meaning that they had to seek federal preclearance for changes to their election procedures—and this motivates our assessment of whether VIVA's many alterations to North Carolina's election procedures are race-neutral. We show that in presidential elections in North Carolina black early voters have cast their ballots disproportionately in the first week of early voting, which was eliminated by VIVA; that blacks disproportionately have registered to vote during early voting and in the immediate run-up to Election Day, something VIVA now prohibits; that registered voters in the state who lack two VIVA-acceptable forms of voter identification, driver's licenses and non-operator identification cards, are disproportionately black; that VIVA's identification dispensation for voters at least seventy years old disproportionately benefits white registered voters; and, that preregistered sixteen and seventeen year old voters in North Carolina, a category of registrants that VIVA prohibits, are disproportionately black. These results illustrate how VIVA will have a disparate effect on black voters in North Carolina.

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I. INTRODUCTION

In the final week of its 2012–2013 Term, the United States Supreme Court in *Shelby County v. Holder*¹ struck down as unconstitu-

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^{1. 133} S. Ct. 2612 (2013).

tional section 4(b) of the Voting Rights Act (VRA).² Historically a key objective of the VRA has been preventing retrogression in racial and language minority voting rights,³ and the now-defunct section 4(b) contributed to this goal by defining a coverage formula that identified jurisdictions in the United States requiring federal preclearance before changing their election laws and procedures. By extension, the majority's decision undermined section 5 of the Act, which specifies preclearance procedures and heretofore required all or parts of fifteen states to receive preclearance before making any changes to their election procedures.

The Court issued Shelby on June 25, 2013. Shortly thereafter the North Carolina state legislature passed an omnibus elections bill, House Bill 589, which was signed into law by Republican Governor Pat McCrory on August 12, 2013.4 Among its many alterations to the electoral environment in North Carolina, the Voter Information Verification Act, known colloquially as VIVA, shortened from seventeen to ten days the state's early voting period; eliminated same-day voter registration during early voting; created a photo identification requirement for casting a ballot in-person but with special dispensation for voters over the age of seventy; and, limited the preregistration of sixteen and seventeen year olds to those turning eighteen by Election Day.⁵ Because 40 of North Carolina's 100 counties had been covered by section 5 of the VRA, pre-Shelby these election law changes would have necessitated preclearance with the federal government so as to ensure that they did not lead to "retrogression in the position of racial minorities with respect to their effec-

^{2.} See 42 U.S.C. § 1973b(b) (2012), invalidated by Shelby County v. Holder, 133 S. Ct. 2612, 2631 (2013) ("[Congress's] failure to [update the coverage formula] leaves us today with no choice but to declare § 4(b) unconstitutional. The formula in that section can no longer be used as a basis for subjecting jurisdictions to preclearance.").

^{3.} See generally Controversies in Minority Voting: The Voting Rights Act in Perspective (Bernard Grofman & Chandler Davidson eds., 1992); Samuel Issacharoff, Beyond the Discrimination Model on Voting, 127 Harv. L. Rev. 95, 97-98 (2013).

^{4.} For the final session law version, see Voter Information Verification Act, ch. 381, 2013 N.C. Sess. Laws 1505. For the final House bill version, see H.R. 589, 2013 Gen. Assemb., Reg. Sess. (N.C. 2013). Its legislative history is also available on the North Carolina General Assembly website. House Bill 589 / S.L. 2013-381, N.C. GEN. ASSEMBLY, http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?BillID=H589&Session=2013 (last visited Mar. 8, 2016).

^{5.} VIVA's photo identification requirement is not slated to go into effect until 2016. In addition to the special dispensation made for registered voters over the age of seventy, VIVA also makes exceptions to its identification requirements for those with religious objections to photographic identification and to those who prior to an election were victims of a natural disaster. See Voter Information Verification Act § 2.1.

^{6.} Jurisdictions Previously Covered by Section 5, U.S. DEP'T JUST., http://www.justice.gov/crt/about/vot/sec_5/covered.php (last updated Aug. 6, 2015) (presenting a list of, inter alia, the 40 North Carolina counties subject to preclearance prior to Shelby).

tive exercise of the electoral franchise." Post-Shelby, however, no such preclearance requirement for North Carolina exists.

VIVA has been lauded by supporters for its focus on protecting the integrity of voting processes in North Carolina and criticized by others who view it as a piece of legislation designed to suppress votes, in particular votes of eligible black residents of North Carolina. Viewed in this light, VIVA exemplifies the contemporary—and increasingly partisan—debate in the United States over voting rights and the sometimes caustic struggle between those advocating for relatively liberal ballot access laws and those who urge vigilance in the face of allegations of election fraud.8 The issue of race is entwined in this struggle, and in light of this, what follows is an analysis of North Carolina's electoral environment, one that focuses on the intersection of VIVA and race. Our attention here is specifically directed at race as opposed to, say, political party affiliation—because of this construct's position in the VRA and the recent decision in Shelby, not to mention the legacy of racial discrimination in American electoral history.⁹ Broadly speaking, our objective is assessing whether VIVA will have differential effects on the two major racial groups, blacks and whites, in North Carolina. According to 2012 estimates from the United States Census, these two groups constitute over ninety-three percent of North Carolina residents; in particular, the Census reports that roughly seventy-two percent of North Carolina residents are monoracial white and twenty-two percent, monoracial black.¹⁰

The scope of this study is the past three General Elections in North Carolina—those that occurred in 2008, 2010, and 2012—in addition to the past two off-year elections—those in 2009 and 2011. In light of this paper's stated objective of assessing whether VIVA will have differential effects across racial groups in North Carolina, our analysis of these five elections considers whether black and white early voters in North Carolina have traditionally cast their ballots on similar days during North Carolina's early voting period; whether blacks and whites in North Carolina tend to differ in their propensities to register to vote immediately prior to voting early; whether registered voters in North Carolina over the age of seventy

^{7.} Beer v. United States. 425 U.S. 130, 141 (1976).

^{8.} See Richard L. Hasen, Race or Party?: How Courts Should Think About Republican Efforts to Make it Harder to Vote in North Carolina and Elsewhere, 127 HARV. L. REV. F. 58, 63 (2014).

^{9.} See generally J. Morgan Kousser, The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910 (1974).

^{10.} See North Carolina QuickFacts from the US Census Bureau, U.S. CENSUS BUREAU, https://web.archive.org/web/20131028151451/http://quickfacts.census.gov/qfd/states/37000. html (last updated June 27, 2013) (presenting the 2012 racial demographics for North Carolina).

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are disproportionately black or white; and, whether black and white voters will be differentially affected by VIVA's rules regarding voter identification. As will be made clear when we discuss VIVA in greater detail, we investigate these race-based questions because of the specific changes that VIVA has wrought on North Carolina election procedures.

The evidence we offer implies that VIVA will have a disparate effect on black voters in North Carolina and is thus not race-neutral. We show, for example, that blacks in the state often vote relatively early in the first week of what historically was an approximately seventeenday early voting period, a week that VIVA eliminated when it reduced North Carolina's early voting period to ten days; that in two of the three most recent General Elections in North Carolina, blacks disproportionately registered on early voting days that VIVA has eliminated; that blacks are disproportionately represented among registered voters in North Carolina who lack two of the seemingly standard forms of photo identification that VIVA deems acceptable; that a special dispensation regarding photo identification requirements for older voters is a greater benefit to whites than to blacks; and, that prior to VIVA's eliminating preregistration in North Carolina for all sixteen and some seventeen year olds, preregistered voters were disproportionately black.

In the next Part of this Article we describe VIVA's political context, situating it in the post-Shelby County v. Holder landscape. After discussing the legislative history of VIVA and some of its particulars, we turn to the data used in our analysis of five recent North Carolina elections. Next we present results on the role of race in North Carolina early voting, registration timing, access to voter identification, and preregistration. We end this Article with some concluding thoughts.

II. ELECTORAL REFORM IN THE SHADOW OF SHELBY COUNTY V. HOLDER

The origins of VIVA predate by several months the Supreme Court's decision in *Shelby County v. Holder*. Nonetheless, the context surrounding this relatively recent North Carolina state law is now part of the aftermath of what appears to be one of the most momentous Supreme Court decisions in the area of voting rights since the 1960s.

A. The Voting Rights Act and Origins of Shelby

The VRA was originally passed by Congress in 1965 and signed into law by then-President Lyndon B. Johnson. The objective of the Act was elimination of voting discrimination, and the VRA established

extensive federal oversight of election administration. The VRA has many facets, but the particular aspects of this law that concern us here are its sections dealing with preclearance. In the introduction we noted that section 4(b) of the VRA provides a coverage formula that specifies the jurisdictions in the United States subject prior to Shelby to federal preclearance, i.e., that needed permission to modify their election procedures prior to implementing them. Section 4(b)'s formula includes indicators as to whether a given voting jurisdiction mandated a literacy "test or device" as a requirement for registering to vote as of November 1, 1964 or had registration or turnout rates of less than fifty percent of voting age population in 1964. 11 Section 5 of the VRA describes how preclearance is implemented and thus leans heavily on section 4(b). Beyond sections 4 and 5, section 2 of the VRA prohibits everywhere in the United States the dilution or denial of voting rights on the basis of race and language minority status.¹² In contrast to sections 4 and 5 and their emphasis on preclearing changes to election laws before they are promulgated, the VRA's section 2 places the burden of proof on those affected by ostensibly problematic election protocol changes.¹³

Pre-Shelby, all election law and protocol changes that affected covered jurisdictions—i.e., those characterized as such by the VRA's section 4(b)—were reviewed by the United States Department of Justice or the federal courts in order to determine if they had retrogressive effects on racial, ethnic, or language minorities. Between 2006, when Congress last reauthorized the VRA, and the spring of 2013, the Department of Justice used its preclearance authority to block many election law alterations that it determined would have discriminatory effects. Prior to the 2012 General Election, for example, the Department of Justice challenged and prevented restrictive photo identification laws from being implemented in Alabama, Mississippi, South Carolina, and Texas, 14 and it successfully forced Florida to modify a mid-2011 law that placed new restrictions on voter registration drives by third party organizations. 15

See, e.g., Section 4 of the Voting Rights Act, U.S. DEP'T JUST., http://www.justice.gov/crt/about/vot/misc/sec_4.php (last updated Aug. 8, 2015).

^{12.} See 42 U.S.C. § 1973 (2012).

^{13.} See id. § 1973(b).

^{14.} See generally Myrna Pérez & Vishal Agraharkar, If Section 5 Falls: New Voting Implications, BRENNAN CTR. FOR JUST. 3-5 (2013), http://www.brennancenter.org/sites/default/files/publications/Section_5_New_Voting_Implications.pdf; Wendy Underhill, Voter Identification Requirements/Voter ID Laws, NAT'L CONF. ST. LEG., http://www.ncsl.org/research/elections-and-campaigns/voter-id-aspx (last visited Mar. 8, 2016).

^{15.} Michael C. Herron & Daniel A. Smith, *The Effects of House Bill 1355 on Voter Registration in Florida*, 13 St. Pol. & Pol'y Q. 279, 279-80 (2013) (explaining the Florida mid-2011 voter registration law).

Shelby struck down the VRA's section 4(b) on account of ostensible problems with the preclearance coverage formula, thus rendering section 5 of the VRA effectively toothless. As a result of this case, changes to voter registration procedures, new requirements for voter identification, and alterations to early voting hours, inter alia, in previously covered or partially covered states no longer must be vetted by the federal government before taking effect. According to Chief Justice Roberts's majority opinion, the VRA's antiquated preclearance formula was "based on 40-year-old facts having no logical relation to the present day."16 Some scholars who historically have been critical of preclearance were pleased with Shelby, with vice-chair of the United States Commission on Civil Rights, Abigail Thernstrom, arguing that, "[t]he court's ruling Tuesday will benefit black America."17 Similarly, former United States Department of Justice official, Hans von Spakovsky, stated that the Court "effectively threw out the preclearance requirements because they were based on 40-year old data," and in so doing, "foreclosed what seems to be one of the favorite pastimes of [Department of Justice] Voting Section lawyers pretending it is still 1965."18

Others, even some who have historically been generally sympathetic with the goals of the VRA, concurred with Roberts' opinion that Congress had neglected its duty—most recently in 2006, when it reauthorized the VRA—to modernize the Act's coverage criteria. Noting that "the [VRA] was pivotal in bringing black Americans to the broad currents of political life," Issacharoff nonetheless concedes that the Court's "unromantic constitutional ruling" in *Shelby* reveals that "the race discrimination structure of section 5 could not be justified in light of the increasing distance between the prohibitions and the distinct practices of racial exclusion that lie at the heart of the Voting Rights Act." Grofman writes similarly, arguing that, "the data used for the [section 4 trigger of section 5] were not just stale, they were incredibly stale." Still, as Kimball points out, recent literature on ballot access shows that voting discrimination in the United States is

^{16.} Shelby County v. Holder, 133 S. Ct. 2612, 2629 (2013).

^{18.} Hans A von Spakovsky, Texas Residents Who Support Voter ID Denied Intervention in DOJ Lawsuit—Will the Same Thing Happen in North Carolina?, NAT'L REV. ONLINE (Dec. 17, 2013, 8:04 PM), http://www.nationalreview.com/corner/366590/texas-residents-who-support-voter-id-denied-intervention-doj-lawsuit-will-same-thing.

Samuel Issacharoff, Comment, Beyond the Discrimination Model on Voting, 127 HARV. L. REV. 95, 95-96, 117 (2013).

^{20.} Bernard Grofman, Devising a Sensible Trigger for Section 5 of the Voting Rights Act. 12 Election L.J. 332, 332 (2013).

hardly a thing of the past notwithstanding the raw voter turnout figures cited in the *Shelby* majority opinion as evidence of a lack thereof.²¹

Reactions from the voting rights community to the *Shelby* decision were predictably harsh. Congressional Representative John Lewis (D-Ga), who was alongside President Johnson in 1965 when he signed the VRA into law, excoriated the Supreme Court's decision:

When the Supreme Court made the decision, I almost cried. I almost shed some tears I kept saying to myself, "I wish somehow the members of the Supreme Court—especially the five that voted to put a dagger in the heart and soul of the Voting Rights Act—could walk in our shoes." ²²

Voting rights groups quickly took aim at the decision, with Advancement Project, for example, issuing a statement expressing "disappoint[ment] that the Supreme Court has taken the extreme act of at least temporarily suspending the nation's strongest civil rights protection," and arguing that "[a]mple evidence shows that prior Section 4 formula—which enabled Section 5 to block more than 1,500 discriminatory voting laws from going into effect since its inception, including five last year—is still a critical necessity, and that the formula for those covered states was clearly appropriate."²³ The Campaign Legal Center, a nonpartisan public advocacy group specializing in elections, also decried *Shelby*, saying:

The Roberts Court proved again that it will not be deterred by Supreme Court precedent, the realities on the ground in our nation; nor will it defer to Congress even when the legislative branch is granted clear authority by the Constitution to remedy our nation's long history of discrimination against racial and language minorities.²⁴

The NAACP Legal Defense and Educational Fund, which defended the VRA in *Shelby*, called the Court's decision "extraordinary judicial overreach," which has "left millions of minority voters without the mechanism that has allowed them to stop voting discrimination

David C. Kimball, Judges Are Not Social Scientists (Yet), 12 ELECTION L.J. 324, 324-25 (2013).

^{22.} The Voting Rights Act: Hard-Won Gains, An Uncertain Future, NPR (July 21, 2013, 5:58 PM), http://www.npr.org/2013/07/21/204284355/whats-next-for-the-voting-rights-act.

^{23.} Supreme Court Removes Critical Protection for Voters of Color, Civil Rights Group Pledges to Keep Fighting States That Discriminate, ADVANCEMENT PROJECT (June 25, 2013), http://www.advancementproject.org/news/entry/scotus-removes-critical-protection-for-voters-of-color#sthash.

^{24.} Ryan J. Reilly, Mike Sacks & Sabrina Siddiqui, Voting Rights Act Section 4 Struck Down by Supreme Court, HUFFINGTON POST (June 25, 2013, 10:19 PM), http://www.huffingtonpost.com/2013/06/25/voting-rights-act-supreme-court_n_3429810.html.

before it occurs."²⁵ Elisabeth MacNamara, President of the League of Women Voters, said the Court "erased fundamental protections against racial discrimination in voting that have been effective for more than 40 years."²⁶

B. The Aftermath of Shelby

In the wake of Shelby, a debate among voting rights and election law scholars started over the future of the VRA's sections 4 and 5. Some legal scholars have argued that race-based criteria for preclearance remain defensible. Gilda Daniels, for example, asserts that Congress should expand section 5's preemptive preclearance power "to protect citizens from discriminatory voting laws." 27 Others, though, have proposed new, arguably race-neutral criteria for preclearance. Chris Elmendorf and Doug Spencer suggest that an alternative requirement for federal preclearance turn on the fraction of residents in a state who hold negative stereotypes of minorities;28 drawing on the history of litigation under section 2 of the VRA, Bernie Grofman suggests a new trigger mechanism for federal preclearance, namely targeting jurisdictions that have had "multiple section 2 cases brought against them" or those that "have repeatedly been found in violation" of retrogressive changes under section 5;29 Bruce Cain and Spencer Overton suggest a greater use of the VRA's section 3 "bail-in provision" in light of the concern that Congress in the near future is unlikely to craft more extensive franchise protections. 30 Alternatively, Janai Nelson argues that the courts should adhere to a more narrow construction of disparate impact claims under section 2 (as amended by Congress in 1982), specifically that statistical analyses of vote dilution should look not only at the racial impact "but also [at] the racial context in which this evidence is situated," or what she dubs the "causal context" that defines disparate vote deni-

^{25.} Supreme Court Ruling on Voting Rights Opens Door to Wave of Minority Voter Suppression, NAACP Legal Def. & Educ. Fund (June 25, 2013), http://www.naacpldf.org/update/supreme-court-ruling-voting-rights-opens-door-wave-minority-voter-suppression (quoting Sherrilyn Ifill, President and Director-Counsel of the NAACP Legal Defense and Educational Fund).

^{26.} Stephanie Drahan, LWV Reacts to Supreme Court Decision on the Voting Rights Act, League Women Voters (June 25, 2013), http://lwv.org/press-releases/lwv-reacts-supreme-court-decision-voting-rights-act.

Gilda R. Daniels, Unfinished Business: Protecting Voting Rights in the Twenty-First Century, 81 GEO. WASH. L. REV. 1928, 1934 (2013).

^{28.} See Christopher S. Elmendorf & Douglas M. Spencer, The Geography of Racial Stereotyping: Evidence and Implications for VRA Preclearance After Shelby County, 102 CALIF. L. REV. 1123, 1162 (2014).

^{29.} Grofman, supra note 20, at 334.

^{30.} See Bruce E. Cain, Moving Past Section 5: More Fingers or a New Dike?, 12 ELECTION L.J. 338, 340 (2013); Spencer Overton, Voting Rights Disclosure, 127 HARV. L. REV. F. 19, 30 (2013).

al.³¹ Finally, Rick Hasen takes a broader view, arguing that since race and party are tightly intertwined, federal courts should ensure that the rights of voters remain protected from maneuvers that could be interpreted as having harmful effects on the grounds of either party or race.³² Sam Bagenstos labels this approach "universalist" since it seeks to "provide uniform protections to everyone" as opposed to, say, a particular racial group.³³

Concomitant with the post-Shelby debate over the future of preclearance and possible trigger mechanisms for federal oversight of state-level and local election procedures, election law changes across many states are underway in various forms. Mississippi, Texas, and Virginia, for example, have begun implementing voter identification requirements that prior to Shelby could have faced extensive federal scrutiny.³⁴ In response to the Texas voter identification law, the federal Department of Justice has under section 2 of the VRA filed suit against the voter identification law known as Senate Bill 14, requesting that federal courts enjoin key sections of this bill and make Texas subject to the type of preclearance that it faced pre-Shelby. 35 states—Arizona and Kansas, the former previously a section 4 jurisdiction—have embarked on dual-registration systems, requiring proof of citizenship for voters wishing to cast their ballots in state elections. 36 Note that the Supreme Court ruled in Arizona v. Inter Tribal Council of Arizona that states cannot require proof of citizenship to vote in federal elections.³⁷ Dale Ho, Director of the ACLU's Voting Rights Project, notes that dual registration systems "were set up after Reconstruction alongside poll taxes, literacy tests and all the other devices that were used to disenfranchise African-American voters."38 In Ohio legislative efforts are currently underway as of the writing of this paper not only to eliminate a week from early voting but also, as in North Carolina, to eliminate the so-called "Golden

Janai S. Nelson, The Causal Context of Disparate Vote Denial, 54 B.C. L. REV. 579, 586 (2013).

^{32.} See Hasen, supra note 8, at 61-62.

^{33.} Samuel R. Bagenstos, Universalism and Civil Rights (with Notes on Voting Rights After Shelby), 123 YALE L.J. 2838, 2838 (2014).

^{34.} Wendy Underhill, $Voter\ Identification\ Requirements/Voter\ ID\ Laws$, NAT'L CONF. St. Legislatures, http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx (last visited Mar. 8, 2016).

 $^{35.\,}$ Complaint at 14, United States v. Texas, No. 2:13-CV-00263 (S.D. Tex. Aug. 22, 2013), 2013 WL 4479214.

^{36.} See Chelsea A. Priest, Essay, Dual Registration Voting Systems: Safer and Fairer?, 67 STAN. L. REV. ONLINE 101, 101-02 (2015), http://www.stanfordlawreview.org/sites/default/files/online/articles/67_Stan_L_Rev_Online_101_Priest.pdf.

^{37.} See Arizona v. Inter Tribal Council of Arizona, 133 S. Ct. 2247, 2260 (2013).

^{38.} Ari Berman, Separate and Unequal Voting in Arizona and Kansas, NATION (Oct. 15, 2013), http://www.thenation.com/blog/176650/separate-and-unequal-voting-arizona-and-kansas.

lot access laws for partisan purposes.40

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C. North Carolina's Voter Information and Verification Act

The original version of VIVA—called House Bill 589—was filed in the North Carolina House on April 4, 2013, and at that time this proposed legislation was essentially a bill aimed at establishing a photo identification requirement for in-person voting in North Carolina. The early 2013 version of House Bill 589, for example, did not alter the length of the state's early voting period. The North Carolina House passed (81 votes in favor, 36 opposed) House Bill 589 on April 24, 2013; The North Carolina Senate received the legislation on the subsequent April 25, and following that date, legislative action on this bill ceased until late July 2013.

On July 23, 2013, a committee substitute for House Bill 589 was adopted in the North Carolina Senate, and with respect to the original bill, this substitute narrowed the types of permitted forms of voter photo identification, cut the number of early voting days in North Carolina by a week, eliminated same day registration and voting during early voting, and made other changes to the North Carolina electoral law. 43 Regarding narrowing the acceptable forms of voter photo identification, for example, an employee identification card was ac-

^{39.} See Ari Berman, Ohio GOP Resurrects Voter Suppression Efforts, NATION (Dec. 4, 2013), http://www.thenation.com/blog/177454/ohio-gop-resurrects-voter-suppression-efforts.

^{40.} See Keith G. Bentele & Erin E. O'Brien, Jim Crow 2.0? Why States Consider and Adopt Restrictive Voter Access Policies, 11 PERSP. ON POL. 1088, 1091 (2013); William D. Hicks, Seth C. McKee, Mitchell D. Sellers, & Daniel A. Smith, A Principle or a Strategy? Voter Identification Laws and Partisan Competition in the American States, 68 POL. RES. Q 18, 19-20 (2015); see also Kara Brandeisky et al., Everything That's Happened Since Supreme Court Ruled on Voting Rights Act, PROPUBLICA (Nov. 4, 2014, 12:31 PM), http://www.propublica.org/article/voting-rights-by-state-map (presenting a map-based display of changing voting rights since Shelby). See generally ALEXANDER KEYSSAR, THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES (2000) (surveying the history of the right to vote in the U.S.).

^{41.} For the text of the original House Bill 589, see H. B. 589, 2013 Gen. Assemb., Reg. Sess. (N.C. 2013), http://www.ncleg.net/Applications/BillLookUp/LoadBillDocument.aspx? SessionCode=2013&DocNum=3118&SeqNum=0.

^{42.} Vote History of House Bill 589 / S.L. 2013-381, N.C. GEN. ASSEMBLY, http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?BillID=H589&Session=2013 (last visited Mar. 8, 2016).

^{43.} Voter Information Verification Act, H.B. 589, 2013 Gen. Assemb., Reg. Sess. (as passed by N.C. Senate, July 23, 2013), http://www.ncleg.net/Applications/BillLookUp/LoadBillDocument.aspx?SessionCode=2013&DocNum=7216&SeqNum=0.

ceptable under the original House Bill 589 but not under the substitute; moreover, expired forms of photo identification were acceptable under the former as long as date of expiry was fewer than ten years in the past. Notwithstanding the additional restrictions called for in the substitute House Bill 589, this piece of legislation passed (33 in favor, 14 opposed) the North Carolina Senate on July 25, 2013, and was sent immediately thereafter to the House, passing the lower chamber several hours later (73 in favor, 41 opposed), at 10:39 p.m. House Bill 589 was signed into law by North Carolina Governor Pat McCrory thus producing what is now known as VIVA.

The passage of VIVA has engendered an acrimonious dispute between the Act's supporters, who describe the new legislation as protecting the integrity of North Carolina's election procedures, and its critics, who see VIVA as a bill designed to suppress votes. Particularly notable about the current dispute in North Carolina is the question of whether the Court's abandonment of section 5 federal preclearance is a harbinger of new attempts to insert race into debates about voting rights and ballot access.

Indeed, critics of VIVA have alleged that the Act's cut in North Carolina's early voting period might have differential effects on black voters in the state. As North Carolina Attorney General, Democrat Roy Cooper, whose job responsibilities include enforcing VIVA, claims the new law threatens "fifty years of progress" in the state and has said as well that "[a] lot of bad public policy was lumped into this bill at the last minute." And upon passage of VIVA, nine-term Democratic state Senator Ellie Kinnaird resigned in protest, saying that the law was designed "to deny people their right to vote." Nonetheless, supporters of VIVA argue that the bill protects the right to vote for all eligible North Carolinians and, in addition, brings North Carolina

^{44.} Vote History of House Bill 589 / S.L. 2013-381, N.C. GEN. ASSEMBLY, http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?BillID=H589&Session=2013 (last visited Mar. 8, 2016).

^{45.} See, e.g., Richard L. Hasen, Supreme Error, SLATE (Aug. 19, 2013, 12:08 PM), http://www.slate.com/articles/news_and_politics/jurisprudence/2013/08/north_carolina_s_sp eedy_vote_suppression_tactics_show_exactly_why_the_voting.html; John Peragine, North Carolina Prosecutor Takes Shots at the Laws He's Obliged to Enforce, N.Y. TIMES (Oct. 24, 2013), http://www.nytimes.com/2013/10/25/us/north-carolina-prosecutor-takes-shots-at-the-laws-hes-obliged-to-enforce.html?.

^{46.} Roy Cooper, North Carolina: Threatening Fifty Years of Progress in Ten Months, HUFFINGTON POST (Oct. 15, 2013, 10:12 AM), http://www.huffingtonpost.com/roy-cooper/north-carolina-republicans_b_4100573.html.

^{47.} Roy Cooper Is Right to Object to Laws That Ill-serve the Public, ROY COOPER (Nov. 9, 2013), 2013 WLNR 28264734.

^{48.} Mollie Reilly, Ellie Kinnaird, Nine-Term State Senator, Resigns over North Carolina Voter ID Law, HUFFINGTON POST (Aug. 20, 2013, 9:23 AM), http://www.huffingtonpost.com/2013/08/20/ellie-kinnaird-resigns_n_3784644.html; see also Ellie Kinnaird, Resignation Newsletter, ELLIE KINNAIRD, http://elliekinnaird.org (last visited Mar. 8, 2016) (presenting the full text of Senator Kinnaird's statement).

into alignment with a majority of other states that do not allow voters to register to vote and then vote on the same day. Upon signing it into law, Governor McCrory said in a press release, "I am proud to sign [VIVA] into law. Common practices like boarding an airplane and purchasing Sudafed require photo ID and we should expect nothing less for the protection of our right to vote." Senate President Pro Tem Phil Berger argued similarly, saying that "[VIVA] is a common sense measure to address concerns that a lot of people have about voting, about making sure that when people vote, they are who they say they are." 50

As of this Article's writing VIVA continues to face multiple legal challenges. On September 30, 2013, the federal Department of Justice filed a lawsuit in federal district court alleging that parts of VIVA violate section 2 of the VRA insofar as they "would have the result of denying or abridging the right to vote on account of race, color, or membership in a language minority group." 51 The lawsuit specifically comments on VIVA's decrease in early voting hours and its elimination of same-day voter registration as well as aspects of VIVA that deal with provisional ballots and voter identification. The Department of Justice's lawsuit came on the heels of two other federal cases, both filed on August 12, 2013. In one of these federal suits, the North Carolina State Conference of the NAACP and other plaintiffs claim VIVA violates section 2 of the Voting Rights Act and the Fourteenth and Fifteenth Amendments of the Constitution.⁵² In the second, League of Women Voters and others challenge VIVA, alleging the law would result in "the denial or abridgement of the right of African Americans in North Carolina to vote in contravention of Section

^{49.} Press Release, Patrick McCrory, Governor of N.C., Governor McCrory Signs Popular Voter ID into Law (Aug. 12, 2013), https://votesmart.org/public-statement/803704/governor-mccrory-signs-popular-voter-id-into-law#.VeyBYZIViko. The press release also notes that 37 states do not allow same-day registration followed immediately by voting. *Id.* ("This new law also aligns North Carolina with the majority of states (37) that do not allow a person to register and vote on the same day.").

^{50.} Ben Brown, Voter ID Bill, Proposed System Overhaul Prompts Protest in Wilmington, PORT CITY DAILY (July 25, 2013), http://portcitydaily.com/2013/07/25/voter-id-bill-system-overhaul-prompts-protest-in-wilmington.

 $^{51.\,}$ Complaint at 31, United States v. North Carolina, No. 1:13-CV-00861 (M.D.N.C. Sept. 30, 2013), 2014 WL 494911.

^{52.} See Complaint at 23, 27, 29, N.C. State Conference of the NAACP v. McCrory, 997 F. Supp. 2d 322 (M.D.N.C. 2014) (No. 1:13-CV-00658), 2013 WL 4053231. The plaintiffs later amended their complaint but still included the two Fourteenth and Fifteenth Amendment claims. See First Amended Complaint at 35, 37, N.C. State Conference of the NAACP v. McCrory, 997 F. Supp. 2d 322 (M.D.N.C. 2014) (No. 1:13-CV-00658), 2013 WL 6253645. As of this paper's writing, the separate federal lawsuits were consolidated into a single case, which has been partially affirmed and partially reversed by a 4th Circuit Opinion. League of Women Voters of N.C. v. North Carolina, 769 F.3d 224, 249 (4th Cir. 2014).

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2 of the Voting Rights Act." ⁵³ Beyond these three federal lawsuits, the League of Women Voters of North Carolina and various other plaintiffs have challenged VIVA in state court, arguing that the law's requirement pertaining to photo identification "imposes a [sic] unconstitutional property requirement in violation of Article I, § 10 [of the North Carolina state constitution] by requiring voters to possess not only an acceptable photo ID, but also the documents necessary to obtain the photo ID and the resources necessary to procure those documents." ⁵⁴

VIVA has many facets, and our analysis here focuses on what appear to be the most significant aspects of the Act. These include the changes VIVA made to the North Carolina early voting period (shortening it from seventeen days to ten); the elimination of same day voter registration; the creation of a photo identification requirement for voters albeit with a special dispensation for voters at least seventy years old; and, the elimination of preregistration of eligible sixteen and seventeen year olds unless they turn eighteen before an upcoming election. The existence of aspects of VIVA that we do not address should not be taken as an endorsement of the claim that these aspects are race-neutral or indeed neutral in any other fashion. Indeed, as Jonathan Wand and his coauthors and Laurin Frisina and her coauthors illustrate, seemingly anomalous or innocuous changes to electoral protocols can have serious consequences for elections.⁵⁵

As a follow-up to a remark we made in the introduction, we emphasize here that we are not interested in this Article in whether VIVA may or may not have partisan effects in North Carolina. Insofar as race is often correlated with political preferences, ⁵⁶ any conclusions we draw about differential effects of VIVA across racial groups will almost by construction have partisan implications as well. More-

^{53.} Complaint at 2, League of Women Voters of N.C. v. North Carolina, No. 1:13-CV-00660 (M.D.N.C. Aug. 12, 2013), http://moritzlaw.osu.edu/electionlaw/litigation/documents/LOWVv.Howard.Complaint.pdf. There is also an intervening motion on this case. See Memorandum of Law in Support of Motion to Intervene as Plaintiffs by Louis M. Duke, Charles M. Gray, Asgod Barrantes, Josue E. Berduo, and Brian M. Miller, League of Women Voters of N.C. v. North Carolina, No. 1:13-CV-00660 (M.D.N.C. Nov. 25, 2013), 2014 BL 220658.

^{54.} Complaint at 20, Currie v. State, 13-CV-001419 (N.C. Orange Cnty. Super. Ct. Div. Aug. 13, 2013), http://moritzlaw.osu.edu/electionlaw/litigation/documents/Currie-v-NC.pdf.

^{55.} See Jonathan N. Wand, Kenneth W. Shotts, Jasjeet S. Sekhon, Walter R. Mebane, Jr., Michael C. Herron & Henry E. Brady, The Butterfly Did It: The Aberrant Vote for Buchanan in Palm Beach County, Florida, 95 AM. Pol. Sci. Rev. 793, 803 (2001); see also Laurin Frisina, Michael C. Herron, James Honaker & Jeffrey B. Lewis, Ballot Formats, Touchscreens, and Undervotes: A Study of the 2006 Midtern Elections in Florida, 7 ELECTION L.J. 25, 40-41 (2008).

^{56.} See, e.g., Stephen Ansolabehere, Nathaniel Persily & Charles Stewart III, Regional Differences in Racial Polarization in the 2012 Presidential Election: Implications for the Constitutionality of Section 5 of the Voting Rights Act, 126 HARV. L. REV. F. 205, 217-18 (2013); Hasen, supra note 8, at 61.

over, the partisan implications of election-reform efforts presumably weigh heavily on office-motivated politicians. Still, we avoid the matter of partisanship because this construct is not protected by the VRA, and we leave for future research the question of whether VIVA's changes to voting laws in North Carolina could alter the partisan balance in the state.

III. NORTH CAROLINA REGISTRATION AND VOTING DATA

Our assessment of the extent to which VIVA has differential effects across racial groups in North Carolina is based on examining historical patterns in North Carolina elections. We have noted above, for example, that VIVA altered the length of North Carolina's early voting period, and this motivates our upcoming analysis of the types of voters in North Carolina who historically have tended to vote early. Such an analysis allows us to determine the types of voters who will be most affected by VIVA's shortening of the North Carolina early voting period.

We consider here five elections, in particular those that took place in 2008, 2009, 2010, 2011, and 2012. This collection of elections provides us with variance in several ways. Of these five elections, three were general—2008, 2010, and 2012—and two were off-year—2009 and 2011. Moreover, of the general elections, two were presidential—2008 and 2012—and the third was the 2010 midterm election that lacked a presidential contest.

We draw on three different data sources when analyzing our five elections of interest, and one key source is the North Carolina statewide voter file. Most of our analysis relies on a version of this file downloaded from the North Carolina State Board of Elections (SBOE) on September 5, 2013. We call this file the September 2013 voter file. To a limited extent, we also use copies of the North Carolina voter file that to the best of our knowledge were created in February 2009 and February 2011. We use these latter two files only when assessing the racial composition of the North Carolina registered voter pool as of February 2009 and February 2011, respectively, and below we make it clear when these two files are invoked.⁵⁷

The September 2013 North Carolina voter file contains a list of registered voters in North Carolina. It also contains names of previously registered voters who as of September 2013 were no longer registered in North Carolina because, for example, they had moved out of the state or had died. For both currently or previously registered voters in North Carolina, the September 2013 voter file contains

^{57.} Michael McDonald of George Mason University provided these files to us.

^{58.} To the best of our knowledge, the September 2013, voter file lists North Carolina registered voters as of the date that the file was created.

basic demographics (e.g., age, gender, and race), registration dates, and so forth. North Carolina voter files also include history information that describes for each registered North Carolina voter whether, and if so how, he or she participated in various elections. Such history information does not include actual vote choices, of course. ⁵⁹

As a consistency check on our September 2013 voter file consider Table 1. For the General Elections of 2008, 2010, and 2012, this table lists official turnout as characterized by the North Carolina SBOE, turnout based on counts in our voter file, and associated coverage percentages. The three percentages in Table 1 are all very close to 100, and the very small discrepancies in the table may reflect provisional ballots and minor data errors.

Table 1: Voter File Coverage

Election	Official Turnout	Voter File Turnout	Coverage $\%$
2008 General	4,354,052	4,347,938	99.86
$2010\mathrm{General}$	2,700,393	2,699,143	99.95
$2012\mathrm{General}$	4,542,488	4,540,838	99.96

Note: Table 1 reports general election participation counts from the September 2013 voter file, ignoring voters whose participation methods are listed as "elig-nv" and "abs-nv". To the best of our knowledge, voters with these classifications did not cast valid ballots. Percentages are listed to four significant digits.

North Carolina voter files contain fields that describe the registration statuses of each registered voter in the state. When a registered voter moves out of North Carolina or moves across counties within the state, said voter's record is marked as "removed." Despite the use of this word, a so-called removed record is not eliminated from the voter file; rather, it is simply marked as removed. If prior to September 2013, for example, a North Carolina registered voter moved from one county in the state to another, and in the process changed her county of registration, she has two records in the voter file, one corresponding to her initial county of registration and a second record cor-

^{59.} The term "voter file" is a generic one that applies across states. Voter files provide snapshots of electorates at given moments in time. The September 2013 North Carolina voter file actually consists of two separate files. One file contains voter demographics and related variables, and the other file contains voter participation codes. Both files are on file with the authors. Together these files constitute one instance of the North Carolina voter file.

^{60.} Voter Turnout, N.C. STATE BOARD OF ELECTIONS, http://ncsbe.azurewebsites.net/voter-turnout (last visited Mar. 8, 2016) (official statewide turnout for North Carolina elections). Per a phone conversation on January 8, 2014 with George McCue of the North Carolina SBOE, the overall turnout numbers on this website do not include provisional ballots that were not counted.

responding to her destination county. In addition, a North Carolina registered voter's status may change to "denied" if a county establishes that the voter "is not qualified to vote based on age, citizenship, residence or conviction of a felony." For example, our September 2013 voter file contains 7,345,422 individual-level records, and there were 6,465,982 registered voters whose status as of the date when the file was created was neither "denied" nor "removed." These voters constitute the registered voter pool in North Carolina as of September 2013. Associated with the approximately 7.3 million records in the voter file are 28,422,881 participation records; each participation record describes how a given registered voter participated in an election.

Beyond voter files, the North Carolina SBOE creates for general and off-year elections what are called absentee files, and in September 2013 we downloaded absentee files for the 2008, 2009, 2010, 2011, and 2012 elections. So-called absentee files constitute our second data source, and an absentee file for a given election lists the North Carolina voters who voted early and absentee. In North Carolina early voting is known as "one-stop" absentee voting, and this contrasts with what in the state is called absentee voting by mail. The latter form of voting is what is traditionally known simply as absentee voting. To keep matters clear, henceforth we refer to one-stop absentee voting as early voting and absentee voting by mail as simply absentee voting.

Table 2 describes three North Carolina registered voter pools and five early voting electorates. The registered voter pools reflect the collection of registered voters in North Carolina as of a given date, and the early voting electorates are associated with individual elections. Here we use our complete set of three voter files so that we have three snapshots of the North Carolina registered voter pool at three different times. The counts in Table 2 are disaggregated by race—in particular, using the categories of black and white—as these two racial groups are the largest two such groups in North Carolina. For example, as of February 2009, blacks and whites comprised approximately 94.89% of all registered voters in North Carolina.

^{61.} Gary O. Bartlett, N.C. State Bd. of Elections, April 2013 SBOE-DMV ID Analysis 2 (2013), http://www.democracy-nc.org/downloads/SBOE-DMVMatchMemoApril2013.pdf. The voter file field titled *voter_status_desc* specifies whether a registered voter's record is denied or removed.

^{62.} For North Carolina absentee voter files, see *Absentee Data*, N.C. St. Board of Elections, http://ncsbe.azurewebsites.net/absentee-data (last visited Mar. 8, 2016).

^{63.} Our five absentee files, one per each election in 2008 through 2012, contain a small number of voters whose recorded dates of early voting lie outside of official North Carolina statewide early voting periods. These voters do not appear in Table 2, and they are not part of the analysis in this paper.

Table 2: Basic Counts from North Carolina Voter Files and Absentee Files

Voter Type	Total	Black	White	Percent Black	Percent White
Reg. Feb. 2009	6,154,625	1,330,188	4,509,917	21.61	73.28
Reg. Feb. 2011	6,107,325	1,321,338	4,460,138	21.64	73.03
Reg. Sept. 2013	6,465,982	$1,\!452,\!855$	4,589,342	22.47	70.98
Early 2008	2,419,206	688,080	1,624,920	28.44	67.17
Early 2009	85,496	19,103	64,270	22.34	75.17
Early 2010	909,122	195,605	688,313	21.52	75.71
Early 2011	82,195	23,218	56,457	28.25	68.69
Early 2012	2,567,555	743,026	1,687,886	28.94	65.74

Note: "Reg." indicates registered voter. Registered voter counts and percentages are based on February 2009, February 2011, and September 2013 voter files, ignoring all records flagged as removed or denied. Early voting electorates are based on North Carolina SBOE absentee files, and early voters who have dates of voting outside of official North Carolina early voting periods are ignored. Percentages are reported to four significant figures.

We will come back to this point shortly, but Table 2 shows that early voters in North Carolina tend to be disproportionately black compared to the overall pool of registered voters in the state. One can readily see this in Table 2 by comparing percent black of the five early voting electorates with the various black percentages across the table's three registered voter pools. An exception to this occurred in the 2010 General Election, as the black early voting percentage was slightly lower than the black percentage of the February 2011 registered voter pool.

Another implication of Table 2 is that early voting in North Carolina is a frequently used method of electoral participation. For example, over 2.5 million North Carolina residents voted early in the 2012 General Election. The magnitude of this number in conjunction with the magnitudes of early voting counts for the other elections in Table 2 bring into relief one reason that VIVA's changes to North Carolina's early voting period have been so controversial.

Our third and final data source consists of two lists of registered voters who lack driver's licenses and a form of identification called a non-operator identification card. These two forms of identification are managed by the North Carolina Department of Motor Vehicles (DMV) and are permissible forms of voter identification as specified by VIVA. Our lists of registered voters who lack these two types of identification were created by the North Carolina SBOE and are described in two public reports, the first of which was released on January 7, 2013, and is titled "2013 SBOE-DMV ID Analysis" and the second of which

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ID Analysis." These two reports detail how the SBOE attempted to determine which registered voters in North Carolina lack driver's licenses and non-operator identification cards, and as described in the reports, the SBOE merged a voter file with a DMV-supplied list of individuals who have these forms of identification. Voter file names that could not be matched with names in the DMV list are assumed to lack driver's licenses and non-operator identification cards, and the implication is that these individuals face relatively higher risks of not having the types of identification necessary to vote. The January list of so-called unmatched registered voters (i.e., registered voters who appear to have neither a driver's license nor a nonoperator identification card) contains 612,955 names and the April list, 318,643 names. These numbers differ roughly by an order of magnitude, and the discrepancy between them reflects the fact that the SBOE used a different merging algorithm in April 2013 than it had originally.64

IV. RACIAL TRENDS IN EARLY VOTING

We begin our assessment of the extent to which VIVA will have differential effects across racial groups in North Carolina with an analysis of early voting in the state in the general and off-year elections of 2008 through 2012. Prior to VIVA's enactment, the early voting period in North Carolina started three Thursdays before a Tuesday Election Day. This yielded an early voting period that could extend up to seventeen days, but in some years past this period contained fewer days because of a lack of early voting on what would have been the first Sunday of early voting.

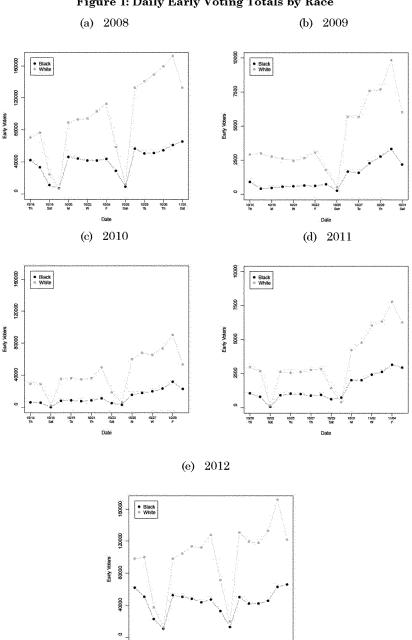
Figure 1 displays for our five elections of interest early voting counts broken down by racial group. There are five panels in the figure, and the horizontal axis in each panel list days on which early

^{64.} The January 2013 unmatched registered voter list, the April 2013 list, and an accompanying January report are on file with the authors. See also BARTLETT, supra

We checked whether the two unmatched voter lists contain any duplicate records where duplicate records are those with common county and county-level voter identification numbers; they do not. One issue regarding dates, though, is worth noting. The registration date field in the January file (it is called registr_dt) contains four-digit years so that, for example, 1911 can be distinguished from 2011; we checked whether any registration dates in this file were after January 2, 2013, and none was. That is consistent with the North Carolina SBOE report that describes the January file as drawing on individuals who were registered as of January 1, 2013. The registration date field for the April 2013 unmatched voter file contains two-digit years, and this leads to ambiguity between, say, 1950 and 2050. According to the North Carolina SBOE, the April file is based on registrants as of March 25, 2013; thus, a registrant with an ambiguous registration year, one that would lead to a registration post-March 25, 2013, is assumed to have a registration year in the twentieth century.

voting took place; not all horizontal axes have the same number of dates, and this reflects the occasional lack of Saturday and/or Sunday voting in an initial weekend of early voting. The arrangement of the panels in Figure 1 incorporates the fact that the elections of 2008, 2010, and 2012 were general elections whereas those in 2009 and 2011 were off-year elections. Within these two groupings the vertical axes are identical across the panels in Figure 1.

Figure 1: Daily Early Voting Totals by Race



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The raw numbers in Figure 1 show that early voting in North Carolina is more heavily used in general elections than in off-year elections. This reflects the fact that the number of overall voters in 2009 and 2011, 508,372 and 495,296, respectively, was low compared to, say, the 2012 General Election, in which official turnout was 4,542,488 voters. See Table 3 for these numbers. The 2010 General Election was a midterm as opposed to a presidential election, and early voting counts in this year were noticeably lower than in 2008 and 2012. This is not an artifact of early voting: overall turnout in midterm elections is typically much lower than in presidential elections, ⁶⁵ and we should not be surprised to see lower early voting turnout in 2010 than in 2008 and 2012.

Notwithstanding differences in overall turnout, the panels in Figure 1 make it clear that early voting in North Carolina is used by thousands of voters, many hundreds of thousands in high-turnout elections like those that took place in 2008 and 2012. The point of this is simply to note that early voting in North Carolina is not a fringe phenomenon and that any changes to the state's early voting laws have the potential to affect thousands of voters. We mentioned this earlier, and to get some perspective on the magnitudes of the counts in Figure 1, consider the aforementioned Table 3. This table lists overall election turnout in North Carolina for our five elections of interest, and in 2008 and 2012 early voting turnout constituted more than half of overall voter turnout. In contrast, early voters were approximately one-third of all voters in 2010 and around sixteen percent of all voters in 2009 and 2011.

Table 3: Overall and Early Voting Turnout

Election	Overall Turnout	Early Voting Turnout	Percent Early
2008	4,353,739	2,419,206	55.57
2009	508,372	85,496	16.82
2010	2,700,383	909,122	33.37
2011	495,296	82,195	16.60
2012	4,542,488	2,567,555	56.52

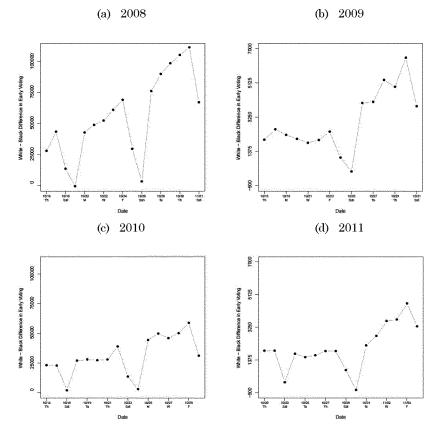
Note: Percentages are reported to four significant figures.

The five panels in Figure 1 report daily counts of early voters, and we can use these panels to understand patterns in temporal variability of early voting in North Carolina. To this end, several patterns

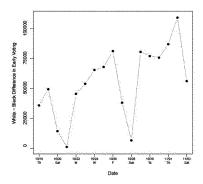
^{65.} See, e.g., Michael P. McDonald & Samuel L. Popkin, The Myth of the Vanishing Voter, 95 Am. Pol. Sci. Rev. 963, 966 tbl.1 (2001).

are evident in the figure. First, in all five elections pictured in the figure, there were disproportionately fewer early voters on weekends than on weekdays; this holds for both black and white early voters. Second, within weekends themselves, Sundays saw fewer early voters than Saturdays, again for both black and white voters. Third, on almost every day of early voting, more whites than blacks voted early; this is consistent with the fact that there are more whites than blacks in North Carolina, and this was evident in the aforementioned Table 2. Fourth, Figure 1 shows that, weekends notwithstanding, North Carolina early voters tend to vote in the second half of the state's early voting period; however, the matter of first versus second week of early voting (broadly construed insofar as North Carolina does not have exactly a two-week early voting period) is not constant across racial groups. Namely, the white-black gap in early voting turnout appears to increase as the early voting period progresses.

Figure 2: Daily White Black Differences in Early Voting Counts



(e) 2012



This latter point is particularly noteworthy in light of VIVA's elimination of the first week of early voting in North Carolina. More details on the white-black early voting gap are reported in Figure 2, which plots white-black differences in early voting counts from the General Elections of 2008 through 2012. To be precise, the differences in Figure 2 are computed by subtracting black early voting counts in Figure 1 from corresponding white counts. When a difference on a particular day is relatively large and positive, then many whites compared to blacks early voted on that day. A white minus black early voting difference that is negative connotes a day on which more blacks cast their ballots early compared to whites.

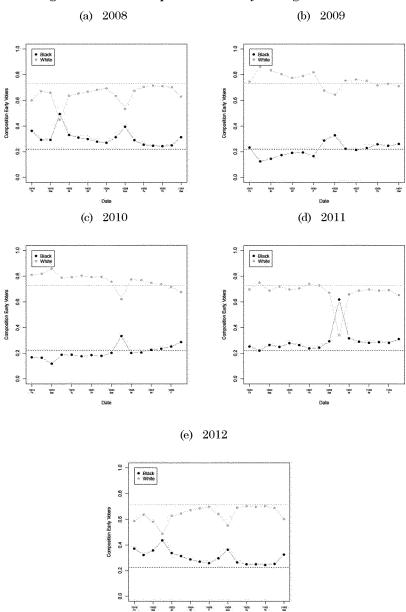
Temporarily ignoring the evident weekend effects, what is clear in Figure 2 is that the five pictured white-black difference sequences in early voting turnout increase in time. In other words, early voting blacks tend to cast their ballots earlier than do early voting whites. Why this phenomenon obtains is beyond the scope of this study, and it would be difficult to address this matter with voter file data alone. 66 Regardless, Figure 2 documents that the two largest racial groups in North Carolina have historically voted at different times during the past early voting periods in the state.

Weekends break up the patterns in Figure 2, but even here we see evidence of a changing white-black early voting gap. Comparing (when possible) the second Saturday of early voting to the first Saturday of early voting or the second Sunday of early voting to the first Sunday of

^{66.} One explanation may lie in mobilization efforts carried out by groups such as Democracy North Carolina and the North Carolina NAACP, who have worked with African American congregations as well as the General Baptist State Convention and other churches, to get out the vote as part of an early voting "Souls to the Polls" Project. See Souls to the Polls, DEMOCRACY N.C., http://nc-democracy.org/get-involved/souls-to-the-polls (last visited Mar. 8, 2016).

early voting shows that the white-black early voting gap is greater in second weekend early voting compared to first weekend early voting.

Figure 3: Racial Composition of Early Voting Electorates



This is consistent with the idea that black early voters in North Carolina tend to vote earlier in the allotted period than white early voters. Herron and Smith find evidence of similar weekend early voting effects in Florida in the 2008 and 2012 General Elections.⁶⁷

Another perspective on the difference between black and white early voting rates in North Carolina can be gleaned by considering the fraction of a day's early voting electorate that was black (similarly, white) and then comparing this fraction to the fraction of blacks (similarly, whites) in a corresponding registered voter pool. With this in mind, for our five elections of interest Figure 3 plots for each early voting day the composition of the early voting electorate that is black and the composition that is white. On each early voting day these compositions sum to a number close to one because there are North Carolina early voters in all five of our elections of interest who were neither black nor white. The panels in Figure 3 contain dashed horizontal lines that indicate the fraction of the North Carolina registered voter pool that was black and white based on an appropriate voter file. The dashed lines reflect the black and white registered voter percentages in Table 2.68

Several things are apparent in Figure 3. First, in presidential election years—2008 and 2012—the early voting electorate in North Carolina was disproportionately black on every day of early voting. In Figures 3(a) and 3(c), that is, every black dot lies above its corresponding dashed line and every white dot below its dashed line. In the 2010 General Election, which was a general election yet did not feature a presidential contest, this pattern does not hold. In 2010, whites were disproportionately represented among early voters up until the end of the early voting period, when blacks became the disproportionately represented group.⁶⁹

Second, the presence of weekend effects in Figure 3 is evident: the early voting electorate in North Carolina is disproportionately black on weekends compared to the registered voter pool in North Carolina. Third, in the presidential election years of 2008 and 2012, the black fraction of the early voting electorate gradually decreased over the course of the early voting period. There were only 17 days in the 2008

^{67.} Michael C. Herron & Daniel A. Smith, Race, Party, and the Consequences of Restricting Early Voting in Florida in the 2012 General Election, 67 Pol. Res. Q. 646, 656 (2014).

^{68.} Table 2 shows that within the North Carolina registered voter pool, the black fraction increased slightly in 2013. This is incorporated in the placement of the dashed line in Figure 3(c), although visually speaking the height of this line is very similar to the heights of the dashed lines in Figures 3(a) and 3(b).

^{69.} We computed difference-in-proportion z-statistics for each black percentage in Figure 4(a), 4(b), and 4(c). All the z-statistics—those that are positive because the black percentage of early voters lies above a dotted line and in addition those that are negative—are significantly different than zero at conventional confidence levels.

and 2012 early voting periods, of which five days were weekends, and thus we compare in Table 4 fraction black on the first day of early voting with fraction black on the last non-weekend day of early voting. The table shows that the first weekday-last weekday drop in fraction black of the early voting electorate was statistically significant at conventional confidence levels in four of our elections studied, with negative drops in 2008 and 2012 (presidential years) and the opposite in 2010 (midterm election).

Table 4: Fraction Black at Beginning and End of Early Voting Period

Election	First Thursday	Last Friday	Difference	z-statistic
2008	0.3611	0.2492	0.1120	69.83
2009	0.2316	0.2463	-0.01463	1.877
2010	0.1683	0.2510	-0.08277	32.83
2011	0.2503	0.2815	-0.03117	3.888
2012	0.3703	0.2518	0.1186	82.01

Note: Results are reported to four significant figures.

Fourth and finally, the dashed lines in the five panels of Figure 3 are notable insofar as they show that black early voters in 2008 and 2012 were overrepresented compared to blacks in the North Carolina voter pool and that white early voters were underrepresented. This pattern of black and white over and under representation obtains on every early voting day in 2012 and has been found in other contexts as well. ⁷⁰ In 2008 there were some days on which the fraction of white early voters was slightly larger than the fraction of white registered voters in the state, but, as in 2012, black early voters were disproportionately overrepresented on every day of early voting.

V. RACE AND TIMING OF VOTER REGISTRATION

We earlier noted that VIVA altered the voter registration rules in North Carolina. Prior to this legislation's enactment, eligible North Carolina residents could register to vote during early voting and even on Election Day itself; Election Day registrants were not allowed to vote on the day they registered, however. Under VIVA, registration and subsequent voting during North Carolina's early voting period—what is often known as "Same Day Registration"—is no longer

^{70.} See, e.g., Michael C. Herron & Daniel A. Smith, Souls to the Polls: Early Voting in Florida in the Shadow of House Bill 1355, 11 ELECTION L.J. 331, 343 (2012).

permitted, and eligible residents in the state who want to register to vote in a General Election must register no later than twenty-five days prior to Election Day.

Are VIVA's changes to voter registration protocols in North Carolina race-neutral? Our initial look at this question considers VIVA's elimination of the opportunity for eligible North Carolina residents to register to vote in the twenty-five days prior to and including Election Day. For the General Elections in 2008, 2010, and 2012, Table 5 describes the total number (see the "All" row in the table) of North Carolina voter registrations in the year before the election as well as the total number of registrations in the twenty-five-day window beforehand. Table 5 also breaks down these registrations into black and white categories; for each election, it reports the percentages of a given registration pool that these two racial groups constituted.

One notable implication of Table 5 is easily summarized: before the elections of 2008-2012, black voter registrations were disproportionately represented in the twenty-five-day period before Election Day. For example, before the 2012 General Election, black voters constituted approximately 28.74% of all registrations in the year prior to Election Day in 2012; in the twenty-five-day period before this day, however, black registrations made up around 30.35%. The black-white registration gaps present in Table 5 all have the same direction, implying that blacks register more frequently in the periods immediately before elections.

For all three elections in Table 5, we carried out difference-inproportion tests between fraction black of the registration pool in the twenty-five days before an election and fraction black in the 340 days prior to the beginning of the window that starts twenty-five days before an election. For example, according to our voter files, in the period before the 2012 General Election, there were 173,923 total registrations in North Carolina, of which fraction black was approximately 0.3035; these two numbers are in Table 5. In the 340 days prior to the twenty-five-day window, there were 637,129 voter registrations in North Carolina, of which fraction black was approximately 0.2830. The difference between these two proportions is approximately 0.0205, and this difference has a z-statistic that is approximately 16.8, i.e., the difference is statistically significant at conventional confidence levels. In all five elections covered in Table 5, we find statistically significant differences between black registration rates twenty-five days before an election and the preceding 340-day window (calculations available from the authors), and we thus conclude from Table 5 that the black voter registration rate is not constant in the year prior to an election and in fact increases in the twenty-fiveday window prior to Election Day.

Table 5: Voter Registrations Before General Elections

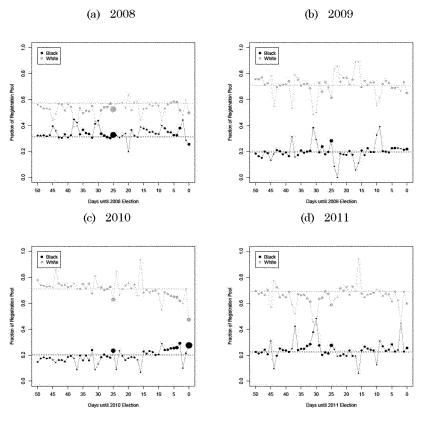
		$\underline{\mathrm{Total}}$		Percentage		
Election	Group	1 Year	$25 \mathrm{Days}$	$1\mathrm{Year}$	$25\mathrm{Days}$	
		Prior	Prior	Prior	Prior	
2008	All	881,831	177,103	_	_	
	Black	275,153	$58,\!652$	31.20	33.12	
	White	503,150	95,398	57.06	53.87	
2009	All	194,089	14,707		_	
	Black	38,002	3,072	19.58	20.89	
	White	13,7911	10,404	71.06	70.74	
2010	All	263,731	46,475	_	_	
	Black	52,940	11,291	20.07	24.29	
	White	187,075	29,126	70.93	62.67	
2011	All	242,905	21,773	_	_	
	Black	54,304	5,209	22.24	23.92	
	White	167,625	14,378	69.01	66.04	
2012	All	811,052	173,923	_	_	
	Black	233,072	52,790	28.74	30.35	
	White	463,733	90,958	57.18	52.30	

Note: The percentage columns in the table refer to the fraction of a registration cohort that a particular racial group comprises. Percentages are reported to four significant figures.

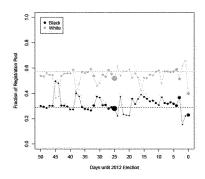
The language of VIVA focuses attention on the twenty-five-day period before an election, but our registration data allow us to compare daily black and white registration rates. For both blacks and whites and for each election of interest, we calculate using the September 2013 voter file the number of registrations on each day in a fifty-oneday window up to and including Election Day itself. Then, for each day we calculate the racial composition of the day's registration pool by dividing the number of blacks who registered on that day by the number of that day's registrations; this yields a daily time series of black registration compositions. We do the same for whites, thus generating a daily series of white registration compositions. We then plot our black and white sequences in Figure 4, and this figure contains five panels, each of which is associated with an election in North Carolina. The orientation of the panels in Figure 4 is identical to that seen earlier; the various dots in the panels denote race-based registration compositions, and the sizes of the dots are proportional to the overall number of registrations. Each panel in Figure 4 also contains two dashed lines, and these lines reflect the fractions of black and white registrants who registered in North Carolina in the year before a given Election Day.

Consider Figure 4(a), which describes trends in registrations that occurred before the 2008 General Election. The 2008 early voting period was seventeen days long, and this period is particularly notable because, pre-VIVA, eligible North Carolina residents could register to vote during early voting and then cast a ballot. Figure 4(a) shows that on most early voting days in 2008, black registrations were disproportionately overrepresented and white registrations, underrepresented. This conclusion follows from the fact that the black-colored dots in Figure 4(a) are for the most part above the dashed black line and the grey dots, below the grey dashed line. We observe similar phenomena in the General Elections of 2010 and 2012, where the black dots in Figures 4(b) and 4(c) are above the corresponding dashed black lines and grey dots, below the grey lines. With respect to the off-year elections in 2009 and 2011, the patterns are more mixed, particularly in 2009, but on average, as shown in Table 5, registrations close to Election Day were disproportionately black.

Figure 4: Daily Race Based Compositions of North Carolina Registrants



(e) 2012



Note: Each dot represents a day's worth of voter registration for a racial group. Dot sizes are proportional to the number of registrations, and the two dots for each day in the figure do not in general sum to one because there are racial groups in North Carolina beyond black and white.

VI. RACE AND AVAILABILITY OF VOTER PHOTO IDENTIFICATION

Our next look at VIVA considers the matter of voter photo identification. This subject is the focus of a variety of existing research projects, ⁷¹ and here we contribute to the literature a brief analysis of the availability of identification to currently registered North Carolina residents.

Prior to the passage of VIVA, North Carolina did not have a voter identification requirement. However, VIVA mandates that starting in 2016 all in-person voters in North Carolina must show photo identification prior to casting a ballot, and VIVA contains a list of identification forms that are acceptable for this purpose. This list includes the following eight types of identification: North Carolina driver's license; non-operator identification card; United States passport; United States military identification; Veterans Identification card; tribal enrollment card recognized by the United States; tribal enrollment card

^{71.} See, e.g., Shelley de Alth, ID at the Polls: Assessing the Impact of Recent State Voter ID Laws on Voter Turnout, 3 HARV. L. & POL'Y REV. 185 (2009); Matt A. Barreto et al., The Disproportionate Impact of Voter-ID Requirements on the Electorate—New Evidence from Indiana, 42 PS: POL. SCI. & POL. 111 (2009); Jason D. Mycoff et al., The Empirical Effects of Voter-ID Laws: Present or Absent?, 42 PS: POL. SCI. & POL. 121 (2009); Richard Sobel & Robert Ellis Smith, Voter-ID Laws Discourage Participation, Particularly Among Minorities, and Trigger a Constitutional Remedy in Lost Representation, 42 PS: POL. SCI. & POL. 107 (2009); Kyle A. Dropp, Voter Identification Laws and Voter Turnout (May 28, 2013) (unpublished manuscript) (http://kyledropp.weebly.com/uploads/1/2/0/9/12094568/dropp_voter_id.pdf).

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recognized by the State of North Carolina; and, driver's license or non-operator identification card issued by Washington, D.C., or a state other than North Carolina as long as the date of a voter's registration was within ninety days of an election. In considering our objective of assessing the extent to which VIVA is race-neutral, it is natural to examine rates of identification ownership by racial group in North Carolina.

To the best of our knowledge, there are no publicly available lists of which residents of North Carolina (not to mention which registered voters in North Carolina) have passports, military identification forms, veterans identification forms, tribal enrollment forms, or driver's licenses issued by states other than North Carolina. However, the North Carolina SBOE has created lists of registered voters in the state who do not appear to have North Carolina driver's licenses or non-operator identification cards, and we rely on these lists when analyzing rates of identification ownership among North Carolina registered voters.

We discussed earlier when introducing our data sources the SBOE's attempts to determine rates of voter identification ownership, ⁷³ and here it suffices to note that during the first half of 2013, the SBOE attempted to match names on a voter file with names of North Carolina residents who hold driver's licenses or non-operator identification cards; recall that these two forms of identification are managed by the North Carolina DMV. The SBOE carried out such matching exercises multiple times, and it published matching reports three times, once in January 2013, once in March 2013, and once in April 2013. Each matching exercise produced a list of what are called unmatched registered voters. To be clear, these registered voters are individuals who are registered to vote but appear not to have a driver's license or a non-operator identification card. The lists do not contain any voters whose status is "denied" or "removed."

In what follows we analyze unmatched registered voter lists produced by the SBOE's January and April matching exercises. These were the first and last (as of this paper's writing) exercises, and the March list contains fewer names than the January list but more names than the April list. The January and April unmatched voter lists are publicly available, and they differ in the criteria used to determine whether a match exists between a given registered voter and an individual whose name appears on a list of North Carolina residents who have, say, driver's licenses. For example, consider a registered voter in North Carolina whose first name, last name, and driv-

^{72.} See Voter Information Verification Act, ch. 381, \S 2.1, 2013 N.C. Sess. Laws 1505, 1506-07, for complete details on these eight forms of identification.

^{73.} See supra pp. 478-79.

er's license number on record with the SBOE exactly match the first name, last name, and license number, respectively, associated with a driver's license issued in North Carolina. The April 2013 matching exercise would presume that said registered voter was issued a driver's license in North Carolina.

The example above is arguably not particularly complicated because it uses exact matches in ostensibly important fields (name and driver's license number) to link a registered voter in North Carolina with a driver's license. Indeed, perhaps the primary dilemma in matching records across lists of individuals is determining the tightness of criteria for asserting the existence of a match. To illustrate this point, the April matching exercise carried out by the North Carolina SBOE also assumes that a match exists between a registered voter and a given driver's license if the voter and license share exact first names, last names, and dates of birth; if they share exact first names, last names, and zip codes; or if the two first names sound similar (this is determined by an algorithm which assesses similarity in names based on sound), the last names match exactly, and dates of birth match exactly.

The January matching exercise used criteria that were much tighter than those used in the April exercise. In its April report, however, the SBOE writes as follows: "With [the] April 2013 analysis, the SBOE is [sic] expanded its matching criteria to allow for additional variation in voters' names and data entry errors on driver license number, social security number or date of birth in either of the databases." The April report provides 29 criteria such that if any criterion is satisfied, a match is said to exist between a registered voter in North Carolina and a driver's license or non-operator identification card issued in the state.

The top portion of Table 6 ("Active and inactive registered voters") contains a black-white racial breakdown for the January and April unmatched registered voter lists. Since the latter exercise had looser matching requirements, by construction it produced fewer unmatched registered voters.

^{74.} BARTLETT, supra note 61, at 5.

^{75.} Id. at 4-5.

Table 6: Unmatched Registered Voters

List	Total	Black	White	% Black	%White			
	Active and Inactive Registered Voters							
Jan.	612,955	191,104	348,141	31.18	56.80			
Apr.	318,643	107,681	172,613	33.79	54.17			
	Excluding Inactive Voters							
Jan.	506,763	158,118	287,093	31.20	56.65			
Apr.	255,160	87,721	137,429	34.38	53.86			

Recall from Table 2 that blacks constituted approximately twenty-two percent of registered voters in North Carolina as of September 2013. With this in mind, the implication of the top portion of Table 6 is straightforward: black registered voters were disproportionately represented among registered voters with neither driver's licenses nor non-operator identifications. This conclusion holds regardless of whether one uses the relatively tight January criteria for matching or the looser April criteria.

Earlier we noted that the North Carolina SBOE sometimes classifies registered voters as denied or removed, indicating that such voters are not eligible to vote. Other registered voters are classified as "active," indicating for the most part that they are regular participants in North Carolina elections, and still another category of registered voters is known as "inactive." An inactive registrant is legally registered and can vote, but his or her status indicates that a North Carolina county elections office has concerns about a valid address for said voter. In particular, a voter who has not had contact with a county elections office for two General Elections cycles and who did not respond to a mailed contact request is placed on inactive status.⁷⁶ We mention the existence of active and inactive status designations because one might be concerned that the January and April lists of unmatched voters are confounded by the presence of many inactive registrants among the unmatched individuals in the top portion of Table 6: perhaps these individuals tend to participate infrequently in all parts of social and political life, i.e., voting, having a driver's license, and so forth. To see if such inactivity confounds our unmatched registered voter results, consider the lower portion of Table 6 ("Excluding Inactive Voters").

^{76.} See Jennifer Suarez, Roll Call: Answering Questions About Voter Removal, RALEIGH PUB. REC. (Aug. 21, 2012), http://raleighpublicrecord.org/news/2012/08/21/roll-call-answering-questions-about-voter-removal/ (discussing the inactive status as well as issues surrounding removal from the list of registered voters in North Carolina).

If we exclude inactive voters, the fraction of black North Carolina registrants that lacks driver's licenses and non-operator identification cards increases, albeit very slightly, i.e., from approximately 33.79% in April 2013 to 34.38%. These two percentages are qualitatively practically identical, and thus Table 6 shows that the overrepresentation of black registrants among registrants who lack driver's licenses and non-operator identification cards is not a function of an overrepresentation of inactive registered voters among unmatched registered voters.

We now consider whether, and if so how, unmatched registered voters from the aforementioned January and April lists participated in the 2012 General Election. It is theoretically possible that all of these individuals did not vote in this election, and it is also theoretically possible that these individuals tend to vote absentee, which in principle could alleviate the concern that they lack some forms of VIVA-acceptable identification. According to VIVA, applications for absentee ballots require "[o]ne or more of the following in the order of preference": a North Carolina driver's license number; a non-operator identification card number; and the last four digits of an applicant's social security number.77 We cannot assess how an absentee ballot request containing only a social security number would be handled by a county elections official in North Carolina. But, it nonetheless appears that voters may be able to participate actively in North Carolina elections without providing photo identification if they vote absentee.78

With this in mind, we merged the January and April lists of unmatched voters with our September 2013 voter file. This file contains records of who voted in the 2012 General Election, and results for this merge are in Table 7. An unmatched voter who has a record in the September voter file but no voting method for the 2012 General Election is assumed to have abstained from voting in this election.⁷⁹

^{77.} See N.C. Gen. Stat. § 163-230.2(a)(4) (2014) (listing complete details of such requirements).

^{78.} For exceptions related to first-time voters, see State Bd. of Elections, Frequently Asked Questions, VOTENC, http://voterid.nc.gov/pages/faqs.html#18 (last visited Mar. 8, 2016).

^{79.} To merge the September 2013 voter file and its 2012 General Election participation codes with an unmatched voter list, we compared county voter identification numbers, county names, and North Carolina voter identification numbers. If these three fields matched across records in the September file and an unmatched voter list, then we treated an unmatched voter as having a 2012 General Election participation code. The January unmatched voter file contains 7641 individuals who registered on or after Election Day in 2012 (November 6) and the April file contains 8916 such individuals. These individuals are not part of the 2012 General Election analysis in Table 7. Also not part of that table are one January unmatched voter and three April unmatched voters who have invalid registration fields in their respective unmatched voter files.

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Table 7 addresses two questions. First, do the January and April unmatched voter lists consist predominantly of non-voters? The answer here is no. While the 2012 General Election abstention rates—approximately forty-seven percent and approximately fifty-six percent—for our two sets of unmatched voters are greater than the then North Carolina abstention rate—approximately thirty-one percent—in November 2012, many tens of thousands of unmatched voters participated in the 2012 General Election.

Second, we noted that VIVA's voter identification requirements for absentee voting may be less stringent than those associated with inperson early or in-person Election Day voting. Regardless of one's interpretation of VIVA's language regarding absentee identification, Table 7 shows that unmatched voters are not heavy users of absentee voting. Rather, they are heavy users of both forms of in-person voting noted here. Thus, potential leniency in voter identification requirements as they pertain to absentee voting will not alleviate the identification problem that is implied by Table 7.

Table 7: Participation in the 2012 General Election by Matching Status

Group	Election Day	Early	Absentee	Abstain
Jan.	107.826	165,452	15,074	282,505
	(17.81)	(27.33)	(2.490)	(46.67)
Apr.	47.475	79,183	7,770	171,880
	(15.33)	(25.57)	(2.509)	(55.50)
All	1,721,587	2,556,145	218,469	2,098,292
	(25.93)	(38.50)		

Note: Report counts and percentages are based on the total numbers of January and April unmatched voters, ignoring those who registered on or after November 6, 2012. Percentages are reported to four significant figures and do not sum to 100 because not all voting methods are listed in the table. The table is based on voters whose participation codes are listed in the September 2013 voter file as "In-Person," "ABS-1STOP," and "ABS-MAIL." The January unmatched group of registrants includes 30,683 (approximately 5% of the list) individuals whose voter registration numbers and counties do not appear in the September 2013 voter file; the comparable April list count of unmatched voters who do not appear in the September voter file is 1554 (approximately 0.5% of the list). To calculate the abstention fraction for all registered voters, we use the official number of registered voters (6,639,131) in North Carolina as of the 2012 General Election.

Our finding that registered voters identified by the North Carolina DMV as not having driver's licenses or non-operator identification cards are disproportionately black is consistent with other studies

that consider race and voter identification. For example, drawing on survey data from Indiana, Matt Barreto and his colleagues find that blacks and those of lower socio-economic status are disproportionately likely to lack valid forms of identification, ⁸⁰ and Trey Hood and Chuck Bullock find that minorities registered to vote in Georgia are less likely than whites to have a required government-issued photo ID. ⁸¹ Our analysis extends these results to North Carolina, and it complements the literature's survey-based findings on the relationship between voter identification possession and race.

VII. RACE, VOTER IDENTIFICATION, AND THE SEVENTY-YEAR SPECIAL DISPENSATION

We have thus far shown that black registrants in North Carolina are disproportionately represented among registered voters in the state who lack driver's licenses and non-operator identification forms. VIVA, however, provides a limited age-related exemption to its identification requirements, and this exemption reads as follows: "[A]ny voter having attained the age of 70 years at the time [the voter presents a form of identification] at [a] voting place shall be permitted to present an expired form of [an acceptable type] that was unexpired on the voter's 70th birthday." La addition, for registered voters at least seventy years old as well as for legally blind, homeless, and certain classes of registered voters who are unable to obtain a driver's license, VIVA waives the fee for a special voter identification card. So

Might VIVA's special treatment of older registered voters ameliorate the overrepresentation of blacks among North Carolina registrants who lack some types of VIVA-acceptable identification? Or, in contrast, does the seventy-year dispensation exacerbate the racial imbalance that we have discussed above? One way to address these questions is to compare the black and white fractions of North Carolina registered voters who are at least seventy years old. Of course there are in North Carolina more white registered voters who are at least seventy years old compared to black registered voters of this age, but this is simply a reflection of the fact that there are more

^{80.} See Barreto et al., supra note 71, at 113.

^{81.} See M. V. Hood III & Charles S. Bullock III, Worth a Thousand Words? An Analysis of Georgia's Voter Identification Statute, 36 Am. Pol. Q. 555, 566 (2008); see also KEESHA GASKINS & SUNDEEP IYER, BRENNAN CTR. FOR JUSTICE, THE CHALLENGE OF OBTAINING VOTER IDENTIFICATION 1 (2012); Matt A. Barreto et al., Persentation at the 2007 American Political Science Association Annual Conference: Voter ID Requirements and the Disenfranchisements of Latino, Black and Asian Voters 10, 17-19 (Sept. 1, 2007), https://www.brennancenter.org/sites/default/files/legal-work/63836ceea55aa81e4f_hlm6bhkse(1).pdf.

^{82.} Voter Information Verification Act, ch. 381, \S 2.1, 2013 N.C. Sess. Laws 1505, 1506.

^{83. § 3.1, 2013} N.C. Sess. Laws at 1510.

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whites than blacks in the state. Thus, we consider here whether the composition of the seventy-years-plus registered voter pool is similar to the composition of the North Carolina registered voter pool in general.⁸⁴

Table 8: Registered Voters and Registered Older Voters in North Carolina

Date	Total at least 70	% Black	% Black at least 70	% White	% White at least 70		
	All F	Registered	Voters				
February 2009	732,864	21.61	15.05	73.28	83.02		
February 2011	768,513	21.64	15.14	73.03	82.69		
September 2013	832,767	22.47	15.33	70.98	81.99		
Excluding Inactive Voters							
February 2009	704,340	21.61	14.95	73.28	83.11		
February 2011	730,897	21.64	15.15	73.03	82.70		
September 2013	784,289	22.47	15.26	70.98	82.11		

Note: Table 8 is based on three voter files, each of which is associated with one of the dates in the table. The counts in the table ignore all records flagged in a voter file as removed or denied, and they also ignore records that have ages greater than 100 years. Percentages are reported to four significant figures.

The top portion of Table 8 ("All registered voters") describes the composition of three North Carolina registered voter pools, one per each voter file used here. Note that each of the three registered voter pools summarized in Table 8 includes over 700,000 individuals who are at least seventy years of age. Insofar as there were approximately 6.4 million registered voters in North Carolina as of September 2013, 85 VIVA's exemption for older voters affects, as of September 2013, approximately thirteen percent of all registered voters in North Carolina.86

^{84.} See infra Table 8. Note that this table uses all three of the voter files discussed earlier.

^{85.} See supra Table 2.

^{86.} Our North Carolina voter files contain a number of voters whose recorded ages do not appear meaningful. For example, the September 2013 file includes 10,416 registered voters whose age is listed as 113 years; the explanation for this group of registrants lies in the fact that "[North Carolina v]oters who registered prior to the implementation of the [North Carolina] statewide voter registration database system and for whom the county board of elections had no record of their full date of birth, were given a date of birth in the [registration] system of 01/01/1900." See Bartlett, supra note 61, at 7 (footnote omitted). The September 2013 voter file also includes one registrant whose listed age is 137 and one with a reported age of 158. Since the counts in Table 8 are based on a maximum age of 100, none of these problematic ages confounds the numbers in the table.

Table 8 compares the composition of the North Carolina registered voter pool with the composition of this pool restricted to registrants of at least seventy years of age. We can make three such comparisons of this nature, one for each of our voter files, and the results of the comparisons are straightforward: whites are disproportionately represented among registered voters who are at least seventy years old. For example, in February 2009 the North Carolina registered voter pool was approximately 73.28% white. However, among registered voters who were at least seventy years old, the North Carolina registered voter pool was approximately 83.02% white.

It seems intuitively plausible that older registrants in North Carolina are more likely to have an inactive status than younger registrants, and in theory this could confound the associations described in Table 8 between age and race. Perhaps the overabundance of white registrants in the top portion of the table includes primarily inactive voters, in which case one might argue that the size of such a group is not particularly noteworthy. With this in mind, the lower portion of Table 8 ("Excluding inactive voters") reports results about age and race, this time excluding officially inactive registered voters. The racial percentages in the lower part of the table are not identical to those in the top half, but they are nonetheless qualitatively very similar. Indeed, the implications of both sections of Table 8 are identical: whites are overrepresented, and blacks underrepresented, among registered voters in North Carolina who are at least seventy years of age.

Figure 5 presents another look at the distribution of age among registered North Carolina voters. The figure contains three panels, one corresponding to each of the voter files considered here, and each panel describes the distribution of age among black and among white registrants. In particular, for ages 17 to 100 the black points in the three panels of Figure 5 describe the fraction of all black registered voters who are of a given age; the grey-colored points describe the same thing but for white registered voters. The sum of the heights of the black points (and similarly the white points) in each panel is one. Finally, each panel in Figure 5 contains a dashed vertical line at seventy years, and this reflects VIVA's seventy-year age dispensation.

The three panels in Figure 5 are not appreciably different, and this is not particularly surprising. It would be somewhat peculiar if, say, the distribution of age across North Carolina registered voters had changed dramatically between 2009 and 2013.

Figures 5(a)-5(c) show the following: Among black registrants, there are more relatively younger voters than older voters. This is evident in the heights of the black dots that correspond to lower ages, say, ages under forty. Among white registrants, though, one observes the opposite pattern, namely, that their older registrants are more

numerous than younger ones. Average ages follow a similar pattern. In September 2013, for example, the average age among black registrants was approximately 44.76 ($s\approx17.26$), and the corresponding white registrant average, approximately 49.55 ($s\approx18.03$).⁸⁷ This pattern—white registrants in North Carolina being on average older than black registrants—obtained in February 2009 and in February 2011 as well.⁸⁸

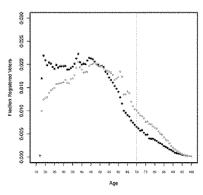
In sum, the composition of registered voters in North Carolina who are at least seventy years of age is disproportionately white, and there is also a greater proportion of white registered voters who are seventy years of age and older compared to black registered voters. We thus find that VIVA's photo identification dispensation for older, registered voters will likely only exacerbate the disparity across racial groups we have identified with respect to driver's licenses and non-operator forms of identification. This dispensation is not raceneutral as it effectively lowers the cost of in-person voting for a larger proportion of white registered voters than black registered voters.

^{87.} These averages are based on registrants whose ages are reported to be between 16 and 100 years. The black and white averages are significantly different at conventional confidence levels.

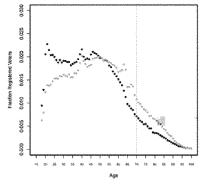
^{88.} The results are available from the authors.

Figure 5: Racial Composition of Registered Voter Pool

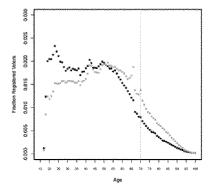
(a) February 2009



(b) February 2011



(c) September 2013



VIII. RACE AND YOUTH PREREGISTRATION

Related to the matter of registered voters age seventy and older is the question of very young registrants. Pre-VIVA, North Carolina allowed preregistration of sixteen and seventeen year olds, but VIVA has changed this.⁸⁹ Namely, under this new law no one can register to vote in North Carolina who will not be eighteen years old on the date of the next General Election.⁹⁰ It is thus natural to consider whether preregistrants in North Carolina are representative of registered voters in the state, and we now turn to this issue.⁹¹

Table 9: Racial Composition of Preregistrants Sixteen and Seventeen Years of Age

Group	Count	Percent	
Black	1,778	26.94	
White	3,880	58.79	

Note: Table 9 is based on 6,601 preregistrants, ignoring those listed as denied or removed as of September 2013. Percentages are reported to four significant figures and do not sum to 100 because of the presence of other racial groups in North Carolina.

North Carolina voter files do not contain birth dates. They do, however, contain an age field, and Table 9 contains the racial breakdown of North Carolina preregistrants who are listed as sixteen or seventeen years old as of September 2013. The table ignores all preregistrants whose status is removed or denied, and it includes 6,601 total preregistrants. The table does not have separate sections for active and inactive preregistrants because all preregistrations aged sixteen and seventeen are listed as active in the September 2013 voter file.

We saw in Table 2 that blacks constituted approximately twentytwo percent of the North Carolina registered voter pool as of September 2013. In contrast, Table 9 reveals that blacks constituted approximately twenty-seven percent of all preregistrants as of September

^{89.} VIVA was implemented in stages, and the part of the law dealing with preregistration became effective on September 1, 2013. Section 12.1.(j) of the bill states: "This section [on preregistration] becomes effective September 1, 2013. All voter preregistrations completed and received by the State Board prior to that date shall be processed and those voters registered, as appropriate." Voter Information Verification Act, ch. 381, § 12.1.(j), 2013 N.C. Sess. Laws 1505, 1534.

^{90.} N.C. GEN. STAT. § 163-82.4(d) (2014) (stating that those that will not be "18 years of age on or before election day" may not submit a preregistration form).

^{91.} The literature on preregistration is not large and in general does not disaggregate registration rates down by race. See, e.g., Michael P. McDonald & Matthew Thornburg, Registering the Youth Through Voter Preregistration, 13 J. LEGIS. & PUB. POL'Y 551 (2010).

^{92.} The September voter file contains five individuals whose listed age is under sixteen. We ignored these five preregistrants.

2013, indicating that sixteen and seventeen year-old preregistration was used prior to VIVA disproportionately by blacks. The elimination of preregistration, except for those who will be old enough to vote in an upcoming election, is thus another feature of VIVA that will have disparate effects across the two main racial groups in North Carolina.

IX. CONCLUSION

With the passage in August 2013 of the Voter Information Verification Act, popularly known as VIVA, North Carolina altered its electoral laws in many ways. Among other things, VIVA shortened the early voting period in North Carolina; eliminated the opportunity for eligible residents of North Carolina to register to vote in the days immediately prior to an election; imposed a photo identification requirement for in-person voting; and, eliminated youth preregistration except for those who will be eligible to vote in the next election. Had these changes taken place before the Supreme Court ruled in *Shelby County v. Holder* that section 4(b) of the Voting Rights Act is unconstitutional, they would have triggered federal oversight because 40 of North Carolina's 100 counties were subject pre-*Shelby* to preclearance. As a result of the *Shelby* decision, though, in late summer 2013 the United States Department of Justice had no grounds to preclear VIVA.

Our study indicates that VIVA will have several disparate effects on black voters in North Carolina. Specifically, we find that in presidential elections the state's black early voters have traditionally cast their ballots disproportionately often in the first week of early voting, a week eliminated by VIVA; that blacks disproportionately have registered to vote during North Carolina's early voting period and in the run-up to Election Day, something now prohibited by VIVA: that VIVA's photo identification provision falls disproportionately on registered blacks in North Carolina; that the special identification dispensation for voters who are at least seventy years old disproportionately benefits white voters; and that prior to the implementation of VIVA, young African Americans were disproportionately more likely than whites to take advantage of preregistration. Although subsequent analyses of the 2014 General Election will certainly provide some clues regarding the extent of the disparate impact under VIVA, the law is likely to have its greatest effect on African American voter registration and turnout in the 2016 presidential election. Until then, our research—which draws entirely on public data from the State of North Carolina—reveals how this omnibus legislation affects the political participation of blacks and whites differently.

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Precinct resources and voter wait times*

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ABSTRACT

The amount of time that voters wait in line while casting their ballots has been a matter of consternation in electorates across the world and a subject of ongoing academic research in the field of election administration. With this as context, we offer here a study of voting lines that combines observed voter arrival times and measures of precinct processes with simulation results. Empirically, we focus on the town of Hanover, New Hampshire, during the 2014 United States General Election. Voters in Hanover initially authenticate themselves to election officials, mark their ballots in secret, and finally insert said ballots into optical scan tabulating machines. These steps are reasonably generic, and thus the way we study Hanover voters is generalizable to the study of voters in democracies across the world. Our simulations show that line voting evolution can be studied after a simple data-collection plan is implemented, and we show how scholars and election officials can evaluate the effects of changing precinct resources, like the numbers of voter authentication stations and voting booths, on the formation and duration of voting lines.

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1. Introduction

The amount of time that voters wait in line while casting their ballots has been a matter of consternation in electorates across the world. For example, the 2010 General Election in the United Kingdom witnessed a surge of voters that overwhelmed numerous

⁶ The research described herein was approved by the Committee for the Protection of Human Subjects at Dartmouth College (STUDY00028440) and the Institutional Review Board at the University of Florida (2014-U-1204). A previous version of this article was presented in June, 2015, at New Research on Election Administration and Reform, a conference held at the Massachusetts Institute of Technology, Cambridge, MA. The authors thank Michael Martinez, Jonathan Nagler, and two anonymous referees for comments on an earlier draft: Peter Selb for a description of German election procedures; Stephen Fowler and Betsy McClain of the Town of Hanover, New Hampshire, for their assistance facilitating precinct monitoring in Hanover; Rennet Vance of The Neukom Institute at Dartmouth College for website programming; Daniel Rockmore of The Neukom Institute flor support; and Charlotte Blatt, Ion Dulachawa, Sasha Dudding, Rafael Nunez, Flight, Samuel Stratton, Mackinley Tan, Daniel Widawsky, Andrew Wolff, and Kevin Zhang for research assistance. Finally, Herron thanks the Office of the Dean of the Faculty at Dartmouth College for the Scholarly Innovation and Advancement Award that funded the research described here.
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polling stations, leaving "hundreds of voters...unable to vote... despite [having queued] for hours." During the 2012 General Election in the United States, there were extensive reports of long Election Day and early voting lines across Florida and other key states; long voting lines were reported in the city of Baltimore; and, some voters in Sandoval County, New Mexico, had to wait as long as five hours to vote, an occurrence attributed to a dearth of adequate voting machines in the county's voting centers.² Finally, Canada suffered from similar problems in its 2015 General Election; long

Guardian US, May 5, 2010, available at http://www.theguardian.com/politics/2010/ may/07/polling-queues-hundreds-unable-vote (last accessed December 25, 2015). ² On the prevalence of lines in a variety of states, see "Complaints about voter IDs, ballots, long lines in election," Reuters, November 6, 2012, available at http://www.

ballots, long lines in election." Reuters, November 6, 2012, available at http://www.reuters.com/article/2012/11/06/ju-us-ta-camajain-regularities-in-cutters.com/article/2012/11/06/ju-us-ta-camajain-regularities-in/2012/06

¹ See "General election 2010: Polling queues leave hundreds unable to cast vote," Guardian US, May 5, 2010, available at http://www.theguardian.com/politics/2010/

lines were reported during "advanced voting" in the run-up to this election and also on Election Day, leading the *The Globe and Mail* to editorialize that "Canada needs to bring the voting process into the 21st century." These three examples span countries and continents, and they illustrate the complications that extensive lines can cause for voting and, ultimately, perceived electoral legitimacy.

The vernacular of voting in democratic countries differs based

on geography. For example, an American "precinct" is roughly equivalent to a "polling station" in the United Kingdom and a "Wahllokal" in Germany. Nonetheless, the basics of voting processes are comparable worldwide (Massicotte et al., 2004). In particular, all voting locations—whether supporting in-person, Election Day voting or early/advanced voting and whether they are precincts with defined and limited jurisdictions or more broadly defined centers with disparate jurisdictions—typically require voters to carry out a sequence of steps consisting of authentication, ballot marking, and ballot insertion into a tabulator or placement in a generic collection device. The exact steps required of an in-person voter in any given voting location will vary depending on applicable voting technology, and the same is true regarding permitted forms of voter identification, but the basic steps taken by in-person voters across the world are roughly

Each of the voting steps noted above—authentication, ballot marking, and ballot insertion—can involve delays and lines. Thus, the study of voting lines writ large and what causes lines to form must treat each distinct step separately. We should not, that is, "black box" the voting process in a way that ignores the fact that voting involves multiple steps, all of which can affect a voter's overall voting experience and, notably, the amount of time that a voter spends in line.

With this point in mind, we contribute to the literature on voting and waiting in line a study of voting processes in Hanover, New Hampshire. Hanover is a town in the East Coast of the United States, and in-person Hanover voters are required to complete three steps in their overall voting processes. Consistent with our aforementioned arguments about the analysis of voting lines, we treat these steps separately, and our objective is to study line formation in Hanover.

Our approach to this objective is twofold: first, we gathered data on voter processes in Hanover during the 2014 General Election

and, second, we used a simulation to explore these data. Our study is thus illustrative of a hybrid research model, one that combines observed data with a simulation that is more theoretical in nature. The approach described here can be easily transferred to other electoral environments, and it can be used to study how lines might affect certain classes of voters. As will be clear shortly, we focus particular attention on the effect of precinct resources on voting lines, and suppose, for example, that one were concerned that certain voter classes—perhaps certain racial or ethnic groups-disproportionately used resource-poor precincts. Our research design could be used to investigate whether the experiences of these particular voters would have been different under an alternative allocation of resources.

Insofar as our conclusions draw on results from a single voting location, one might be concerned that Hanover may not be representative of precincts across the United States. Indeed, Hanover is a rather small New England town (8636 residents according to the 2010 Census) and is relatively racially/ethnically homogeneous (77.5 percent white, 12.4 percent Asian, and 4.3 percent black) and wealthy (median household income of \$82,875).6 Nonetheless. from the perspective of studying precinct processes and the factors that lead to voting line formation, Hanover is in fact quite typical, and see Massicotte et al. (2004, pp. 102–141) for a discussion of the broad similarities across democracies in the way that people vote. As in many thousands of voting locations across the United States and the world, voters in Hanover follow a three-step voting process (authentication, ballot marking, ballot insertion). The voting steps in Hanover are generic, and thus the way we study voters in this location—in particular, how our data on in-precinct, voting processes inform our simulation analysis—is easily generalized to the study of voters in democracies broadly defined.

In what follows we describe how we gathered data on 2014 General Election voting processes in Hanover. The technical requirements inherent in our approach are minimal albeit not completely inconsequential; our data-gathering approach relies on labor and access to an Internet-based server. Among other things, our data on Hanover characterize the arrival times of voters and what we call the voting-step times for each of the three steps that all in-person Hanover voters faced in their overall voting processes. Based on our voting data from Hanover—arrivals plus voting-step times—we construct a simulation that allows us to model the formation of lines as a function of precinct resources. By resources we mean here authentication stations, voting booths, and optical scan machines. With our simulations we consider both the resources that Hanover actually used in November, 2014, as well as counterfactuals such as, what would voting line evolution in Hanover have looked like if the town's precinct had fewer optical scan machine available at its voting precinct? And, how would voting line evolution in Hanover been affected by a drastic reduction in voting booths? Our simulation approach to the study of lines is a general one that has nothing to do with Hanover per se. The software that we wrote for the simulation will be made publicly available, and

³ See "Canada needs to bring the voting process into the 21st century," The Globe and Mail, October 15, 2015, available at http://www.theglobeandmail.com/globe-debate/editorials/canada-needs-to-bring-the-voting-process-into-the-21stcentury/article26831411/(last accessed December 1, 2015) and "You get fed up' Long lines frustrate some voters," CTV News, October 19, 2015, available at http:// 16408 (last accessed December 1, 2015).

iii (last accessed December 20, 2015), and on Arizona your-neuronano-vocamin (past accessed December 2, 2015), and or Introduce http://www.azsos.gov/elections/outing-election (last accessed December 20, 2015). Variance in voter identification requirements across states is tracked by the Na tional Conference of State Legislatures, and in particular see the report titlee "VOTER IDENTIFICATION REQUIREMENTS — VOTER ID LAWS," available at http:// www.ncsl.org/research/elections-and-campaigns/voter-id.aspx#Two (last accessed December 20, 2015). See Schaffer and Wang (2009, pp. 400-401) for a discussion of variance in voter identification requirements across counties.

⁵ Like many jurisdictions, Hanover also allows absentee voting. Absentee voters, who fill out their ballots in the homes, are not subject to lines in the way that inwho in our tier bailors in the homes, are not subject to lines in the way that in-person voters are. However, absentee voters face other administrative hurdles, i.e., ensuring that their completed ballots are received by relevant election officials, ensuring that they correctly authenticated said ballots, and so forth. Absentee oting is not part of our analysis, but a comprehensive depiction of the election dministrative issues that affect voting should consider absentee balloting. On this point, see Oliver (1996) and Alvarez et al. (2008), for example

⁶ For these statistics on Hanover, see census data at http://quickfacts.census.gov/

For these statistics on Hanover, see census data at http://quick/acts.census.gov/ qd/states/33/33786.hm/ (last accessed June 5, 2015).
As an aside, New Hampshire allows voters to register on Election Day; this is known as "Same Day Voter Registration." On account of this, the authentication process for a Hanover voter can involve a registration step in addition to the steps noted in the body of the article. To keep things simple, our results ignore New Hampshire voters who registered on Election Day 2014; incorporating them into our analysis would be straightforward, however, and we discuss this matter in the months. The National Processing of the Processing o conclusion. The National Conference of State Legislatures maintains list of states that offer Same Day Voter Registration, and this list can be found at http://www. accessed May 31, 2015).

this will enable researchers and election officials to model line formation as a function of voter arrival processes and available resources.

Our simulations show, not surprisingly, that reducing precinct resources leads to longer lines and more waiting by voters. However, the motivation for our research is not to illustrate this somewhat obvious point. Rather, what we seek to do here is to show how scholars and election officials worldwide can evaluate the tradeoff that exists between election resources as waiting. Election administration jurisdictions-counties, cities, and towns in the United States, communes and arrondissements in Senegal, and kommunes in Denmark, for example—need to consider how they allocate resources for election work and, in a jurisdiction that contains multiple precincts, how to allocate resources across precincts. An optimal allocation of resources depends on knowing the marginal cost of, say, reducing one precinct's resources in favor of another's. The cost of such a reduction, as we show here, will be paid by voters forced to wait in line, and the precise amount of this cost depends on voter arrival process as well as on voting-step times. Our simulations make this point clear, and they show how changes in resources interact with arrivals and voting-step times to generate precinct lines.

In the next section of the article we discuss contemporary literature on voting lines. We then discuss how during the 2014 General Election we measured the voter arrival process in Hanover and how we assessed the three-step voting process inside of its polling station. The next section of the article presents simulation results that model the evolution of lines as function of precinct resources, and we conclude with a discussion of our main findings and directions for future research.

2. Election administration and voting lines in elections

The study of voting lines is one component within the field of election administration, an extensive field that crosses political science, public administration, and computer science. Scholars of election administration focus on the mechanics of voter registration and the rules that prescribe when voters are allowed to register (e.g., Hanmer, 2009; 014: Burden, 2014); the forms of identification that voters need in order to cast their ballots (e.g., Barreto et al., 2007; Barreto et al., 2009: Erikson and Minnite, 2009: Hale and McNeal, 2010): where voters physically cast their ballots (e.g., Oliver, 1996; Stein, Dyck and Gimpel, 2005; Barreto et al., 2006; Brady and McNulty, 2011; Alvarez et al., 2012; Stein and Vonnahme, 2014; Biggers and Hanmer, 2015); the types of technology that voters use when registering their preferences over candidates and ballot measures (e.g., Knack and Kropf, 2002; Tomz and van Houweling, 2003; Alvarez and Hall, 2010; Stewart III, 2014); the formats of voting interfaces (e.g., Wand et al., 2001; Kimball and Kropf, 2005; Herrnson et al., 2006; Frisina et al., 2008; Kropf, 2014); when voters are allowed to vote (e.g., Neeley and Richardson, 2001; Herron and Smith, 2012, 2014); and the poll workers who manage elections at the local level (e.g., Kimball and Kropf, 200 Hall et al., 2007; Hale and Slaton, 2008; Hall and Moore, 2014).

The study of voting lines can be thought of as a public administration matter as opposed to a matter purely of election law (Montjoy, 2008). Electoral statutes specify many features of election conduct—e.g., ballot access laws for candidates, requirements for voting, types of permissible technology—but lines fall outside of the types of issues typically engaged in legal election disputes. Given the lack of a legal framework that surrounds lines, perhaps it is not surprising that, compared to the varied subjects noted above, the state of knowledge on voting lines remains limited and the policy responses to perceived line issues uneven. In her global assessment of "why elections fail," Norris (2015, p. 3) observed that "[n]umerous types of flaws and failures undermine elections," including inaccessible polling stations, poorly trained poll workers, long lines, inadequate voting supplies, incorrect voter registers, and jammed voting machines. These factors and a plethora of others may jeopardize the integrity and legitimacy of an election, be they the result of "accidental maladministration," "official incompetence," or "intentional acts of partisan fraud and manipulation" (p. 133). Images of voters queuing in seemingly interminable lines can be seen around the globe, from developing countries such as Kenya (Long et al., 2013) and Venezuela (Kornblith and Jawahar, 2005), to developed ones, such as the United Kingdom (James, 2014). In the United States, prominent voting line issues during the 2008 General Election were not ameliorated in 2012; "[Since 2008] policy changes in many states have increased, not reduced, the stress on Election Day polling operations" (Levitt, 2013, p. 466). Long wait times in 2012 and overall voter experiences helped spur United States President Bar-ack Obama to form the Presidential Commission on Election Administration, whose final report recommended that, "[A]s a general rule, no voter should have to wait more than half an hour in order to have an opportunity to vote" (p. 14).

Notwithstanding historical problems with lines, compared to other democracies the United States may be advantaged in the realm of voting lines. Many voters in American General Elections now cast early or absentee ballots (Gronke, 2012), thus avoiding crowds on Election Day; in the 2014 Midterm Elections, for example, only approximately 60% of voters cast in-person, Election Day ballots. Nonetheless, the majority of voters around the world. cast still vote on a single Election Day at a local precinct. 10 As such, the likelihood of an electoral meltdown due to excessive wait times at the polls has even greater import in the comparative context irch, 2011; Hyde, 2011).¹¹
Broadly speaking, within the scholarly literature on election

administration there are two approaches to the study of voting lines and their consequences. In one approach, scholars draw on observational data at the individual or precinct level and seek to understand whether there are differential patterns of voter wait times across jurisdictions and across voter demographic profiles. Some studies in this vein also seek to determine whether limita-tions in voting jurisdiction resources are associated with long lines. The second approach to the study of voting lines relies on queuing theory and in some cases on simulations.

An archetype of the first approach to voting line research is Stewart III (2013), Based on the Survey of the Performance of American Elections (SPAE), Stewart III analyzes the 2012 General Election and highlights the tremendous variance in wait times across voting precincts in the United States. Stewart III's survey evidence on wait times covers many jurisdictions across the country and shows that, in November, 2012, Floridians waited on average longer to vote than the residents of any other state. Stewart III also draws attention to an urban/rural split in wait times insofar

<sup>The Commission's website and final report are available at http://www.supportthevoter.gov (last accessed May 26, 2015).
See "The 2014 EAC Election Administration and Voting Survey Comprehensive Description of the Comprehensive Comprehensiv</sup>

Report, available at http://www.acg.gov/sessist/likep.com/sessist/

to some the last of percent of democracies yoters in legislative elections cast billois on a single day (Massiootre et al., 2004, p. 116).

If the lack of a single Election Day might help with line prevention, but there could be other, downstream consequences of the trend, at least in the United States, toward early and absentee voting. Early voters, for example, register their preferences over anothers of the managizing is over, and hence they cannot respond to late-breaking campaign news in the way that Election Day voters can.

as urban voters tend to have longer waits than their rural counterparts. Kimball (2013), also drawing on the SPAE, has similar findings in terms of voting lines in urban locations. In a national survey of voter wait times in the 2008 General Election, Alvarez et al. (2009) find that "20% of African American voters waited more than half an hour to vote, compared to 14% of Whites and 15% of Hispanics" (p. 2).

Drawing on observational data and the premise that congested precincts will tend to close late, ceteris paribus, Herron and Smith (2015) consider precinct closing times in Florida in the 2012 General Election. They identify racial patterns in late-closing precincts in Florida and in particular show that Hispanic Election Day voters in the state disproportionately used late-closing precincts in 2012. In another study, Herron et al. (2015) consider voter wait times in Miami-Dade County, Florida, in the 2014 General Election, and they show that voters forced to wait a long time to vote had disproportionately low levels of confidence in electoral processes, ceteris paribus. Such a confidence cost compounds the time tax that waiting at the polls imposes on voters (e.g., Mukherjee, 2009).

In one of the most detailed studies of the correlates of voting lines, Spencer and Markovits (2010) examine voting times in 30 California precincts during the state's 2008 Presidential Primary. Among other things, Spencer and Markovits show that voters using electronic voting machines take disproportionately long to vote and that voting lines are longest during peak voting hours. Spencer and Markovits is the only study we know of that tries to estimate the deterrent effects of long voting lines, and it concludes that approximately 1.89 percent of voters who were in one of their 30 monitored voting lines departed before actually voting. Another study of the cause of long lines is Highton (2006), who uses precinct-level data from the 2002 gubernatorial election and the 2004 presidential election in Ohio to assess whether there was a "causal relationship between the number of registrants per available voting machine (RPM) and turnout" in the state's Franklin County. Highton argues that "machine scarcity was a cause of lower turnout" and estimates that, in the 2004 presidential election, 21,786 more people would have voted in Franklin County if there had been lower RPMs.

The second approach to the study of voting lines relies explicitly on queuing theory and simulation. For example, Allen and Bernshteyn (2006) study Franklin County in the 2004 presidential election. Similar to Highton (2006), their focus was voting equipment—namely, Franklin County's use of direct-recording electronic (DRE) machines—but Allen and Bernshteyn also consider ballot length as a factor that might affect voter wait times. They predict that 23,445 more people would have voted in the 2004 presidential election in Franklin County if all the precincts there had been able to process voters in a timely fashion. Allen and Bernshteyn claim that this would have been possible had election administrators used their algorithm to determine how many machines and poll workers were needed throughout the day to minimize wait time and maximize efficiency.

Another simulation-based study of voting lines is Yang et al. (2013), who are interested in how to allocate voting resources across precincts in a way that is fair to all voters; this objective parallels Allen and Bernshteyn's discussion of malapportionment of resources in Franklin County. Yang et al. argue that algorithms for allocating machines to jurisdictions should be based on voter equity in wait times as opposed to voter access to machines. And, they argue via simulation that an algorithm they developed is better for voters than an algorithm that defines voter equity based on voting machine utilization. Another simulation study of voting lines is Edeistein and Edeistein (2008), who posit that the use of electronic voting machines causes long lines. A precinct would need many more electronic machines than optical scan machines to achieve a

similar level of performance, and this is problematic, according to Edelstein and Edelstein, given the relatively high costs of the former.

We contribute to the literature on voter wait times and election administration more broadly with a simulation-based study of lines in Hanover, New Hampshire. Our study is a hybrid of the two approaches to voting line research we noted earlier: its results draw on both observational data and the results of simulation. Although, demographically speaking, Hanover is not necessarily representative of voting jurisdictions across the United States, with respect to woting processes Hanover voters are typical voters. Here, our use of the word "typical" refers to democratic voters across the world. Hanover voters face a three-step voting process, and two things determine the rate of progress that a given Hanover voter makes through the voting process: the time required for said voter to complete each voting step and the number of stations or slots in the Hanover precinct dedicated to each step. Our data collection exercise is similar to that in Spencer and Markovits (2010) insofar as its results are based on observed times per voting step for a large set of Hanover voters. As such, our study is observational in nature and also simulation-based as it uses observed voting-step times to study the effect of resource changes on voting lines.

We argue below that our hybrid mode of data collection in conjunction with simulation exemplifies the type of overall analytical approach that scholars and election officials alike can employ when they want to study the evolution of voter lines. Indeed, this is the ultimate objective of our research. One perspective of our results is that they constitute a proof of concept for our data collection exercise combined with a simulation. As we will see shortly, voting lines in Hanover were not problematic in any sense during the 2014 General Election, and our simulations reveal that this is because the Hanover voting precinct is so heavily endowed with voting resources. They show as well that voting lines in Hanover would indeed be a problem if this resource situation were to change.

3. Collecting data in Hanover, New Hampshire

On November 4, 2014, we collected individual-level data on voter arrivals and within-precinct processes in Hanover High School, the location of the Hanover voting precinct. For the purposes of our study, it is not enough for us to determine whether, say, voter authentication takes on average 40 s or 50 s; rather, for each step in the Hanover voting process, we need to know the full distribution of authentication times across a set of voters. Among other things, this means that we had to study the three separate steps in the Hanover voting process: authentication, ballot marking, and ballot insertion. In the introduction we argued that these steps are plausibly generic, and here we justify this claim.

3.1. Authentication

New Hampshire state law imposes a voter identification requirement, and this means that the authentication step in Hamover required each voter to proffer a form of identification before receiving a ballot. In the absence of a formal identification requirement, there would still be an authentication step in the Hanover voting process although we might call said step a voter check-in step. According to the National Conference of State

¹² Prior to the implementation of New Hampshire's voter identification law, a newly-arriving voter at the Hanover precinct would give his or new name to an election official. The official would locate this name on a list of voters, and then would give a ballot (or possibly ballots) to the voter.

Legislatures, 31 of 50 states as of mid-2015 require voters to provide a form of identification prior to voting.¹³ Many countries have identification laws as well (Massicotte et al., 2004; Schaffer and Wang, 2009).

3.2. Ballot marking

In Hanover, what we call ballot marking—the second step of the voting process—is the physical step of making a paper ballot with a black pen. This step is generic even though the act of ballot marking might involve different physical behaviors depending on a jurisdiction's voting technology. For example, in jurisdictions that rely on electronic voting machines, there are no formal ballots; in these jurisdictions, ballot marking, and ballot insertion are not distinct steps (e.g., Alvarez and Hall, 2010).

3.3. Ballot insertion

We have already noted that Hanover uses optical scan voting machines in its precinct. Moreover, Hanover is what is called a "precinct count" jurisdiction, meaning that ballots are counted at the precinct after voters insert them in optical scan tabulators. In contrast, some optical scan precincts in the United States are "central count." These precincts collect optical scan ballots which are then counted in a central location after voting has concluded. Optical scan precincts that are central-count do not technically have a ballot insertion step. However, these precincts must collect their voters' ballots, and in terms of individual voter behaviors the step of collecting ballots is analogous to what we call here the ballot insertion step. In Germany, for example, completed ballots are placed in an urn where they are later counted by hand. Regardless, the final step of a voting process that uses a paper ballot is one in which a voter places his or her ballot in some device or container. Like others before us we conceptualize of precincts as queues

Like others before us we conceptualize of precincts as queues which involve multiple steps. Each step in the vote-casting process has an associated distribution of what we previously called voting-step times, and these times describe how long a voter takes to complete various required voting steps.¹⁵ A step can have a line preceding it if there are more voters demanding positions in a given voting step than there are available slots. Preceding the first voting step is the voter arrival process, which describes the rates at which

voters come to the precinct.

Queuing processes are subject to both balking and reneging. In the context of a voting precinct, a voter is said to balk if, upon arriving and observing a long line, she declines to join a queue. Similarly, a voter is said to renege if, after joining a queue, she departs before completing it. The results that follow assume that balking and reneging rates are zero. This means that we assume that voters who want to vote are not deterred by long lines nor, conditional on joining it, do they leave a line before voting.

To characterize the operations of the Hanover precinct we

To characterize the operations of the Hanover precinct we contracted with a set of 14 research assistants who were stationed at the entrance of Hanover High School and also within the school. There were at least two research assistants on the premises of the school at all times. Each assistant wore a bright orange shirt that The Hanover High School gymnasium was used solely for voting on November 4, 2014, and it is pictured in Fig. 1. The figure's hand-drawn map is a copy of the actual diagram used by precinct officials to set up the Hanover precinct, One can see at the top of the map where voters enter ("Registered Voters"); where they authenticate ("Ballot Check-In Tables"); where they mark their ballots ("Curtained Voting Booths," "Fold-up Voting Booths," and "Card-board Voting Booths") and, finally, where they insert completed ballots into optical scanning machines ("Ballot Box #1" and "Ballot Box #2"). While Fig. 1 is not entirely to scale, e.g., Hanover has 76 ballot marking stations, it nonetheless shows how the flow of voters is intended to move through the Hanover High School gymnasium. The figure also shows where voters who plan to register on Election Day enter the gymnasium ("Same Day Registrations") and where other election-related activities take place (e.g., "Absentee Ballot Processing").

4. Voter arrivals

The Hanover precinct opens at 7:00 am on Election Day, and barring unusual circumstances no voter is allowed to join a line to vote after 7:00 pm. We mention such a caveat here because a fire alarm went off at Hanover High School a bit after 6:00 pm on November 4, 2014, and a small number of voters (eight) was allowed to cast their ballots after polls would have ordinarily closed. A New Hampshire state judge later ruled that these ballots could be counted. We explain shortly how we deal with the fire alarm issue.

To measure the time that each Hanover voter arrived at Hanover High School, a research assistant stationed directly in front of the gymnasium's entrance used a mobile web application. The application displayed a screen which was accessible via a smartphone (all of our research assistants had smartphones). The so-called arrival tracking screen, which is shown in Fig. 2, displayed a set of 15 buttons. When an assistant pushed one of the pictured buttons, the application recorded a timestamp on an offsite server and recorded as well the type of button pressed." As Fig. 2 makes clear, the buttons available to our research assistants corresponded to voter gender and race/ethnicity, and we allowed for two genders (male and female) and four races/ethnicities (white, Hispanic, black, and Asian). The web application also had buttons without race/ethnicity, and these buttons were labeled "Male" and "Female." Lastly, there was one button labeled "Someone," and this button recorded a voter's arrival time without respect to any voter characteristics

identified him or her as a researcher gathering data on precinct processes, and officials in Hanover gave our research assistants permission to be on site. Our research assistants did not themselves vote while gathering data for the project described here, and they were instructed to be as unobtrusive as possible during their shifts. The assistants were allowed to stand right next to the precinct entrance within the high school; this is important because it means that our data are not contaminated by passers-by who were visiting. Hanover High School for reasons unrelated to the 2014 General Election.

See Table 1 of "VOTER IDENTIFICATION REQUIREMENTS — VOTER ID LAWS," as described in fn.7.

14 For details on German election law, see https://www.bundeswabilleiter.de/de/

¹⁴ For details on German election law, see https://www.bundeswahlleiter.de/de/ bundestagswahlen/downleads/rechtsgrundlagen/bundeswahlordnung.pdf (last accessed January 12, 2016).

accesses January 12, 2019.

To fin queenilisterature, one would see the term service time as opposed to votingstep time. Here we use the latter because we feel that it better captures the idea that voters are active agents in voting processes as opposed to individuals who are served.

¹⁶ See "Fire Alarm Postpones Hanover Vote 20 Minutes," Valley News, November 5, 2014, available at http://www.wnews.com/news/142/15284-95/fire-alarm-postpones-hanover-vote-20-minutes (last accessed May 28, 2015), and "Fire alarm sounds at polling place in Hanover," WMUR.com, November 4, 2014, available at http://www.wmur.com/politics/fire-alarm-sounds-at-polling-place-in-hanover/20532986 (last accessed May 28, 2015).

¹⁷ There was in principle a small amount of latency between button-pushing on site at Hanover High School and receipt of signal on a server. We treat this latency as negligible.

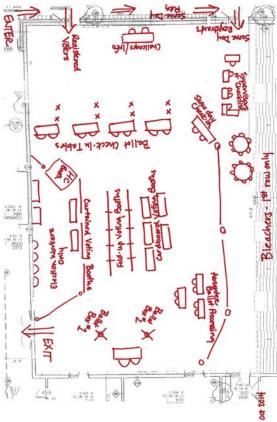


Fig. 1. Hanover High School Gymnasium.

We instructed our research assistants not to engage voters who were approaching the precinct entrance inside Hanover High School, and thus they were not able to verify the genders and races; ethnicities of the individuals whose arrivals they tracked. Consequently, the assistants had to use their judgment when deciding which button on the arrival screen to press upon seeing a new voter. We instructed the assistants that pressing a button for each voter who arrived was more important than determining, say, the race/ethnicity of a particular voter.

Given Hanover's relative racial/ethnic homogeneity, we did not anticipate when planning our research project that we would be able to characterize the white voter arrival process as distinct from,

say, a Hispanic voter arrival process. However, we do anticipate using our voter-tracking web application in environments outside of New Hampshire, and hence we designed it so that it includes various race/ethnicity buttons. This set of buttons could be expanded should we want to keep track of other voter characteristics in the future.

After the aforementioned fire alarm went off in Hanover High School, our research assistant then tracking voter arrivals had to leave the entrance to the school gymnasium. This assistant, however, attempted to keep track of new voter arrivals outside of the school to the extent that this was possible. When the fire alarm situation was resolved (there was no fire to begin with), this

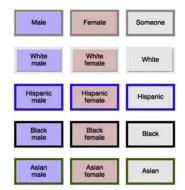


Fig. 2. View of arrival tracker web page.

assistant returned to the entrance of the high school gymnasium.

On November 4, 2014, our research assistants recorded 4229 total voters at Hanover High School. According to the New Hampshire Secretary of State, Hanover had 4270 in-person votes cast on Election Day. These two numbers are not identical, but are nonetheless quite close. Given the confusion caused by the fire alarm, we are very pleased that the number of voters whose arrivals we tracked is so close to the number of voters who cast in-person ballots.

Fig. 3 describes the recorded arrival times of Hanover voters, and the figure pools arrivals by minute. It also disaggregates arrivals by gender. Actual arrivals—depicted in the figure's background in light gray—are somewhat noisy, but a superimposed loess smoother—shown in black—provides useful structure to the observed arrivals. Smoothed male and female arrival processes are shown in dashed and dotted curves, respectively. For obvious reasons we have somewhat less confidence in the voter arrivals that are to the right of the vertical line in Fig. 3; this line denotes the approximate time of the fire alarm.

Looking at the smoothed black curve that describes total voter arrivals, Fig. 3 suggests that approximately five voters arrived per minute during the initial two hours of Election Day 2014; that this arrival rate increased to around six voters/minute around 10:00 am; and, that the arrival rate of voters per minute fluctuated between five and seven throughout the day. The arrival rate dropped precipitously after 6:00 pm, but we cannot know if this is a regular facet of the voter arrival process in Hanover or a reflection of the fire alarm that disrupted voting.

In terms of gender, it appears from Fig. 3 that male and female

In terms of gender, it appears from Fig. 3 that male and female voters in Hanover had somewhat different arrival patterns. Compared to the female voter arrival rate, the male arrival rate was relatively constant—approximately 2.5 voters per minute—throughout the day. The female arrival rate initially was approximately two voters per minute, and this rate then increased to around three voters per minute by 10:00 am. The female arrival

rate had two local peaks during the afternoon of November 4, 2014, and these peaks occurred around 2:45 pm and 4:15 pm.

It is natural to wonder whether the gender differences in arrival rates and whether the overall patterns we observe in Fig. 3 hold in general. To this end, Spencer and Markovits (2010) describe voter arrival processes in 30 precincts across three counties in California during the 2008 Presidential Primary in that state. Roughly speaking, Spencer and Markovits find that arrivals are moderately high in the morning, drop around noon, and then surge in the evening. This pattern is similar but certainly not identical to what we see in Fig. 3; in the latter we observe a late afternoon surge but not a strong drop-off in the middle of the day.

To the best of our knowledge, the factors that drive temporal variability of voter arrival rates are not well-known within the election administration research community. Our Hanover arrivals in Fig. 3 may be confounded by the particular demographics of Hanover; by the fact that the 2014 General Election is a mid-term election; and, by factors idiosyncratic to voters in New Hampshire. Similarly, Spencer and Markovits's findings on arrivals during the 2008 Presidential Primary in California may be confounded by the fact that primary woters have different voting habits than general election voters. Until voter arrivals processes are tracked at many different types of precincts across the United States and across different types of elections, our knowledge of these processes will remain largely enecdotal.

cesses will remain largely anecdotal.

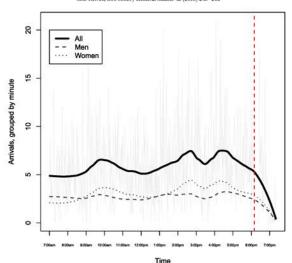
Finally, we are not aware of any voters who reneged once they joined the line to vote. Notwithstanding the momentary confusion caused by the fire alarm in Hanover High School, voting on November 4, 2014, proceeded smoothly throughout the entire day. However, one might be concerned about a Hawthorne Effect, induced by our research assistants, on voter reneging (e.g., Kraut and McConahay, 1973). Namely, the presence of orange-shirted observers with smartphones may have encouraged voters to stay in line when they otherwise might not have wanted to do so. While we cannot be completely sure that voters did not behave this way, conversations with a number of Hanover voters in the days after the 2014 General Election suggest that a Hawthorne effect on reneging was unlikely. Namely, the vast majority of Hanover voters with whom we discussed voting processes in the then-recent 2014 General Election professed to be completely unaware that anyone was tracking them. It is also notable that there are various precinct officials scattered throughout the Hanover High School gymnasium, and our research assistants might easily have been confused. for such officials. Thus, if there were a Hawthorne Effect that depressed voter reneging rates, it almost certainly would not have been any more meaningful than the comparable effect induced by the presence of town officers or the occasional member of the local press reporting on activities in the Hanover precinct. The matter of reneging and how to study it is certainly worthy of future study.

5. Measuring voting steps

Beyond keeping track of voter arrivals, our research assistants tracked voters inside of the Hanower precinct. To do this they used a different web application, one that allowed them to indicate when a voter started a particular step—authentication, ballot marking, or ballot insertion in an optical scan machine—in the voting process and when she finished said step. Each step in the voting process is thus associated with a distribution of durations, and the step times tracked by our research assistants are displayed in Fig. 4.

The three histograms in Fig. 4 are right skewed, which is not surprising given that voting-step times are bounded below by zero. There is a fair amount of variance in how long voters took to complete their three steps, and we see that ballot insertion was a relatively fast step. Table 1 describes some basic statistics across the

The Secretary of State provides an Excel file that breaks down voter turnout in the 2014 General Election by county and town. This file is titled "BallotsCast2014general.xk" and is available at http://socnth.gov/WorkArea/DownloadAsset.aspx? id=8589942364 (Jast accessed May 28, 2015).



Note: shows actual arrivals in grey; smoothed arrivals in solid black; and arrivals broken down by gender in dashed (male) and dotted (female) grey. The dashed vertical line in red indicates the approximate time of a fire alarm in Hanover High School.

Fig. 3. Arrival times of Hanover voters

three voting-step times that we tracked. On average, the data in the table confirm that ballot marking was on average the longest voting step, that this step had significant variance, and that some Hanover voters took up to five minutes to fill out their ballots. In contrast, Table 1 shows that ballot insertion was relatively quick, with some voters finishing this step in approximately one second.

It is natural to inquire as to whether the voting-step times

It is natural to inquire as to whether the voting-step times shown in Fig. 4 can be modeled with Poisson distributions. The sample statistics in Table 1 suggest, however, that there is excessive variance or what is called overdispersion in the step times compared to what one would expect under a standard Poisson model; if voting-step times were Poisson, the mean of the distribution of, say, the authentication time would equal its variance. Thus, when our upcoming simulation samples from observed voting-step times, it samples from the actual empirical distributions of these times as onegoed to Poisson approximations of them.

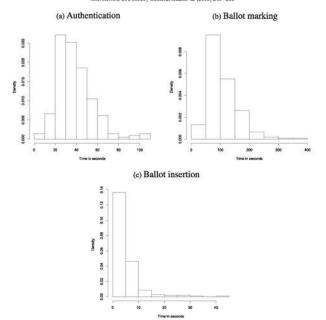
voting-step times, it samples from the actual empirical distributions of these times as opposed to Poisson approximations of them. We—and presumably other scholars of election administration—care about voting lines and voting step times because waiting in line is a time tax as well as the potential that extended voting processes could lead to disastisfied voters and a lack of legitimacy in election outcomes. With this in mind, it is worth asking if any of the steps described in Table 1 seems problematic. In our opinion, the answer is no. What is conceivably the most problematic step in the voting process is the first step, authentication. This step has the potential for conflicts about voter identification, whether a voter is who she says she is, and so forth. Table 1 shows that the average Hanover voter was authenticated in approximately 40 s, and the longest authentication time was a bit

under two minutes. We do not have access to survey data on how long an argument about authentication would have to be before it became problematic. However, it is nonetheless hard to imagine that even 110 s, which as shown in Fig. 4a is not at all representative, is particularly long. Given that authentication in New Hampshire requires a voter to offer a form of identification and then an election clerk to find the voter in a multi-page, paper list and cross off her name, the authentication times described in Table 1 seem quite quick.

When a Hanover voter finishes with a step in her voting process, she must either transition directly to the following step or join a line preceding said step. In principle, moving between voting steps this can take a few seconds given the distribution of equipment in the Hanover precinct; the earlier Fig. 1 makes the necessity of moving clear. We assume here that transition times from one voting step to another are negligible and are not a function of the existence of lines. To some extent this assumption may be problematic as one could envision that an excessively long line could lead to congestion which might cause problems for voters in the gym who are trying to navigate from one step of the voting process to another. However, to the extent that this is true and ignored in our analysis, our estimates of the consequences of long lines will be conservative.

6. Simulation design

Having described how we gathered arrival and voting step times in Hanover, New Hampshire, during the 2014 General Election, we



Note:voting-step times are in seconds. Note that the scales of the horizontal and vertical axes in the three histograms are not identical.

Fig. 4. Distributions of Hanover voting-step times.

Table 1 Summary of Hanover voting step times.

Step	Observations	Minimum	Maximum	Mean	Median	Variance	
Authentication	210	3	110	39.4	36	314.7	
Ballot marking	214	1	378	108.3	97	2884.0	
Ballot insertion	207	1	43	5.5	4	30.0	

Note: times are in seconds.

now describe our simulation, which is designed to model line evolution in the Hanover precinct. The combination of observed voter process data and a simulation are the crux of our hybrid research design, and our simulation operates as follows.

6.1. Voter arrival process

We model voter arrivals with a non-homogeneous Poisson process. In particular, we allow the rate parameter in our Poisson arrival process to vary by hour, and we consider two separate vectors of rate parameters. Our first vectors, which we call Vector A, is based on actual Hanover arrivals depicted in Fig. 3; associated

Poisson rate parameters are as follows: 5, 5, 6, 7, 5, 5, 6, 7, 6, 7, 5, 4. We divide each rate parameter by 60 corresponding to Fig. 3's grouping of arrivals by minute. According to Vector A, voter arrivals in Hanover average five per minute for the first precinct hour, five per minute for the second, six per minute for the third, and so forth. Beyond Vector A, our simulations consider a second set of Poisson rate parameters that we call Vector B. These parameters, prior to being divided by 60, are as follows: 4, 4, 6, 5, 5, 6, 8, 7, 8, 5, 4. Note that the sum of Vector A's parameters equals the sum of Vector A's parameters equals the sum of Vector B's, and thus, over the course of a full day of voting, the expected number of voter arrivals is equal under both Vectors A and B. However, these two vectors differ with respect to a late afternoon

surge. Namely, in Vector A, the afternoon surge to the extent that it existed is captured by rate parameters of 6, 7, 6, 7, 6; in Vector B, the corresponding rate parameters are 6, 8, 7, 8, 5. The two sets of numbers imply that, when voter arrivals follow Vector B, they are relatively more concentrated in the later afternoon than in Vector A. We consider both Vectors A and B so that our simulation can address the effects of a larger afternoon surge of voter arrivals on line formation.

6.2. Service times

We model voting step times using the three empirical distributions described in Fig. 4. In particular, upon arrival a voter is assigned an initial time for authentication; this time is a random draw from Fig. 4a. Of course, such a voter may have to wait in line prior to authentication if there are no positions available for authentication when she arrives to vote. After the voter finishes authenticating, she either joins a line before ballot marking or immediately begins marking her ballot; the among of time required for ballot marking is a random draw from Fig. 4b. Then, following ballot marking our hypothetical voter either waits in line prior to ballot insertion or immediately inserts her ballot into a machine; the time required for this step is a random draw from Fig. 4c.

6.3. Resources

The availability of slots in the three voting steps considered here depends on precinct resources. In Hanover during the 2014 General Election there were seven stations for voter authentication, 76 booths for ballot marking, and two optical scan voting machines. With respect to authentication, the stations were delineated by first letter of last name, e.g., A–B, C–F, and similarly through T–Z. Thus, two individuals with the same last names arriving together at Hanover High School is different than the simultaneous arrivals of one voter whose last name is "Smith" and another voter whose last name is "Abrams." What this means formally is that the seven voter authentication stations used in November, 2014, in Hanover were equivalent to some number of stations that is strictly fewer than seven. The precise amount fewer than seven depends on the arrival rates of voters based on their last names and the extent to which, say, married couples with the same last name tend to vote together. The scholarly literature does not have much to say about the relationship between voter arrivals and last names, and, the above caveat notwithstanding, we treat Hanover's seven authentication stations as seven independent station."

Our simulation operates as follows. Using a vector of 12 Poisson parameters, one per hour, we randomly generate a set of voter arrivals denominated by second. The number of arrivals for each simulation is itself a random variable, and the arrivals by second tells us, for example, if a simulated voter arrives at second 60 of election day; this is equivalent to 7:01 am. Once our simulation has characterized all voter arrivals times in seconds after 7:00 am, we then step through each second in an election day and move voters through the three-step voting process based on randomly drawn voting step times.

Suppose that the first voter were to arrive at second 20; this is equivalent to 20 s after 7:00 am. Since this voter is the first one to

vote, there is no line prior to authentication. Our simulation randomly draws an authentication time for this voter, and she spends some amount of time authenticating. When this voter is done authenticating, she either waits in line for a voting booth if all booths are full—in principle, this could happen if, while our first voter was busy authenticating, other voters arrived and leapfrogged our initial voter while she was authenticating—or she immediately enters a voting booth. Once in a booth, our simulation draws a random time that specifies how long the first voter takes to mark her ballot. Finally, after marking her ballot, our voter either waits in line to use an optical scan machine (if the machines are already being used) or immediately uses one. The amount of time that she spends with this machine is drawn from the distribution of tabulator usage times.

We repeat this process for all voters. Our simulation keeps track of when each voter arrived, how much time she spent voting, how much time she spent in line, and such.

It should be clear from this discussion that the term "voting line" is somewhat ambiguous. A voter can be said to wait in line before voting with the emphasis on before, that is, prior to authentication. However, the same voter can also wait in line while voting, i.e., after authentication but prior to ballot marking. With this in mind, we believe that the key waiting time variable is the total time that a voter spends in line. Insofar as waiting in line is a time tax, it should not matter whether a voter waits after or before authenticating with an election official, after or before ballot marking, and so forth.

7. Simulation results

We now presents results of simulating voting lines based on the voting step time distributions in Fig. 4 and the non-homogeneous Poisson arrival processes characterized by rate parameters in the aforementioned Vectors A and B. Recall that Vector A is intended to approximate the actual arrival process of voters in Hanover on November 4, 2014, while Vector B includes a sizable late afternoon surge. Our simulations adjust the resource sin the Hanover precinct, and we have already noted that the resource vector in Hanover has three components: the number of stations available for voter authentication, the number of voting booths used for ballot marking, and the number of optical scan machines into which voters can insert their ballots. For a given set of precior resources we simulate the overall Hanover voting process 20 times, and in each simulation we keep track of the total amount of time voters spent in line.

Table 2 contains basic statistics on the number of minutes voters spent in line during their simulated voting experiences. In particular, the table has average values (averages are taken over 20 simulations) for various quantiles of the distribution of overall time voters spent in line(s). Note that the simulations in Table 2 do not change the number of voting booths in the Hanover precinct; this number is set at 76 for all simulations, and one consequence of this is that are across all simulations no lines before ballot marking.

Simulation 5A is equivalent to Hanover's resource status quo and, by virtue of its using Vector A, is also consistent with a voter arrival process that is a close match as to what was observed on November 4, 2014. The row corresponding to this simulation shows that lines were not a problem in the 2014 General Election in Hanover. According to our simulation, the median time spent in line was zero seconds, and the third quartile of overall line time was zero seconds as well. This result is not very sensitive to a late afternoon surge in voter arrivals. To see this, consider Simulation 5A, which features a late afternoon surge and the same resource vector as Simulation 5A. Table 2 shows that lines were minimal even in this case. One implication of the 5A and 5B lines in Table 2 is that Hanover is well-endowed in voting resources.

¹⁹ Had our arrival tracking research assistants queried voters as they approached the Hanover precinct, we could in principle have tracked Hanover voter arrivals based on last names. However, this would have been disruptive, and we wanted our precinct observers to be as unobtrusive as possible. Moreover, explicitly asking voters about their names would have confounded our study if, for example, the willingness of a voter to vote is correlated with her willingness to provide her name, or even a last initial, to an outside observer.

Table 2
Voter line times with 76 voting booths

Index	Auth. stations	Voting booths	Scanning machines	Min.	1Q	Median	3Q	Max.
1A	7	76	1	0	0	0.62	8.19	98.15
2A	6	76	1	0	0	1.6	10.5	103.2
3A	5	76	1	0	0	5.5	21.2	147.4
44	4	76	1	0	10	71	254	654
5A	7	76	2	0	0	0	0	41
6A	6	76	2	0	0	0	0.2	59.1
7A	5	76	2	0	0	0	12	130
8A	4	76	2	0	7.1	76.8	260.5	641.1
1B	7	76	1	0	0	1.1	9.4	100.8
2B	6	76	1	0	0	2.1	13.1	121.8
3B	5	76	1	0	0	7.2	35.5	243.3
4B	4	76	1	0	12	104	1020	2062
5B	7	76	2	0	0	0	0	46
6B	6	76	2	0	0	0	1.6	80.2
7B	5	76	2	0	0	0.62	27.57	221
8B	4	76	2	0	8.5	96	1104	2122.3

Note: all times are in seconds, and 1Q and 3Q refer to first and third quartiles, respectively. The index of a given simulation describes whether it uses the voter arrival process parameters in Vector A or those in Vector B. All line statistics are based on averages of 20 simulations.

Voting lines are in principle nonetheless plausible in Hanover. Indeed, as soon as the number of authentication stations drops, lines start forming prior to authentication. To be precise, consider Simulations 1A–4A and 5A–8A. From 1A to 4A, the number of authentication stations drops and other voting resources are held fixed. The same applies to Simulations 5A–8A. The difference between the four simulations in 1A–4A versus 5A–8A is that the number of optical scanning machines is one in the former set versus two in the latter. In both the 1A–4A or 5A–8A cases, median overall voter wait times increase from approximately zero seconds to perhaps one and one-half minute when the number of authentication stations in the Hanover preciot drops from seven to four.

tication stations in the Hanover precinct drops from seven to four. This effect of a drop in authentication stations is more pronounced in the Vector B simulations, when there is an afternoon surge in voter arrivals. For example, consider Simulations 1B—4B and, similarly, 5B—8B. In these simulations, median overall line times change from 1 s to around 100 s when the number of authentication stations drops from seven to four. Even with only four authentication stations, though, our simulations imply that Hanover's resources are easily sufficient according to the aforementioned wait time guidelines offered by the Presidential Commission on Election Administration, which call on jurisdictions to ensure that no voter wait more than half an hour to vote.

The quantiles of line times displayed in Table 2 do not describe line dynamics and in particular how our simulated lines evolved over time. For this we turn to Fig. 5, which for selected configurations (7A, 7B, 8A, and 8B) of precinct resources plots line lengths by time. The figure focuses on lines before authentication as these lines are perhaps the most notable and are consistent with the concept of "waiting to vote." Lines before ballot marking are non-existent in the simulations described in Fig. 5 because Hanover has so many ballot booths and lines before ballot insertion do exist but are very short.

Fig. 5 consists of a matrix of four small figures, and voter arrival processes are constant within rows. Namely, the top row of Fig. 5 uses Vector A and the bottom row, Vector B with its late afternoon surge. The vertical axes in each figure are the number of people in line to vote.

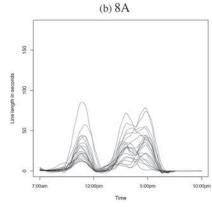
Focusing first on the top row, the difference between Fig. 5a and b is that the simulation in the latter involves one fewer authentication stations; one can see this in Table 2's rows labeled "7A" and "8A." The top row of Fig. 5 shows how the reduction of one authentication station leads to longer lines to vote and that the marginal cost of subtracting such a station varies across the time of

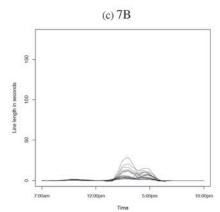
day. When there are few voter arrivals (early morning hours), having four authentication stations rather than five is of little consequence. Almost no one is in line regardless. However, when there is an uptick in arrivals, the consequences of a smaller number of authentication stations is clear. In particular, Fig. 5b shows that, when the number of authentication stations is small, there are up to 50 people waiting to vote in the late morning and during the afternoon. Moreover, when there is a pronounced late afternoon surge, as depicted in the bottom row of Fig. 5d, line lengths increase considerably and approach 200 voters at peak moments. In Simulation 8B, the average maximum overall time in line is around 35 min (this is close to 2062 s). This time is long, but even here the average median time in line is under two minutes (107 s).

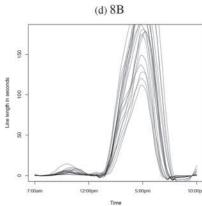
One of the ways in which Hanover is heavily-resourced in the area of voting equipment is with respect to ballot marking stations. We have already noted that there were 76 such stations in Hanover High School in November, 2014, a testament to their relative inexpensiveness (some are made of cardboard) as well as to the fact that Hanover voting takes place in a large gymnasium. What, however, if Hanover had many fewer stations, say, only eight or ten? This question is addressed in Table 3, which describes overall voter wait times when the number of voting booths is much smaller than 76.

Table 3 is organized identically to the previous simulation table. Namely, it reports results from 16 sets of simulations, each of which is based on resource vector that prescribes authentication stations, voting booths, and optical scan machines. Some simulations use the observed Hanover voter arrival process (these are identified as "A"] and others use a voter arrival process that has a pronounced after surge ("B"). All of the simulations in Table 3 assume that Hanover has two optical scan voting machines, but this assumption is not extremely important because the times associated with ballot insertion tend to be short (see Table 1).

According to Table 3, if Hanover had only eight voting booths, then lines in Hanover High School would have been extensive. And, this conclusion holds with the regular voter arrival process characterized by Vector R. Consider Table 3's Simulation 9A, for example, with seven voter authentication stations, eight voting booths, and two optical scan machines. In this situation, the average median overall line time is a bit over 70 min, and the average third quartile line time is over two hours. In other words, 25 percent of voters in Simulation 9A waited in line more than two hours during their voting processes. These line lengths, which are similar in magnitude to other







Note: each curve depicts line lengths, and there are 20 curves per plot, representing 20 simulations for a given set of precinct resources.

Fig. 5. Authentication line evolution with many voting booths.

average medians and average third quartiles in the top four rows of Table 3, would place Hanover well beyond the recommended maximum wait times as promulgated by the Presidential Commission on Election Administration.

Contrast Simulations 11A–14A with 11B–14B; the difference between these two simulations is that the latter set is associated with an afternoon surge in voter arrivals. One can see from Table 3 that the afternoon surge is associated with lower average median

line times but higher average third quartile line times and higher maximum line times. What explains this is as follows. A surge is bad for those voters involved—they end up spending time in line because a surge causes congestion—but good for voters not so involved. Recall that Vectors A and B hold constant the expected total number of voter arrivals. So, when voter arrivals are relatively more concentrated in the late afternoon, as they are in Simulations 11B—14B, median line times drop. But, a set of voters is forced to

Index	Auth. stations	Voting booths	Scanning machines	Min.	1Q	Median	3Q	Max.
11A	7	8	2	0	1960	4353	7778	10,193
12A	6	8	2	0	1958	4350	7993	10,478
13A	5	8	2	0	1900	4137	7554	9866
14/	4	8	2	0	1960	4317	7690	10,101
15A	7	10	2	0	187	541	1070	1873
16A	6	10	2	0	184	598	1274	2171
17A	5	10	2	0	137	558	1098	1911
18A	4	10	2	0	111	473	1008	1879
11B	7	8	2	0	1478	3179	7845	10,771
12B	6	8	2	0	1652	3633	8328	11,321
13B	5	8	2	0	1508	3120	7725	10,544
14B	4	8	2	0	1665	3537	8066	10,965
15B	7	10	2	0	57	350	2296	3647
16B	6	10	2	0	64	381	2005	3410
178	5	10	2	0	57	334	1997	3457
18B	4	10	2	0	73	366	2116	3472

Note: all times are in seconds, and 1Q and 3Q refer to first and third quartiles, respectively. The index of a given simulation describes whether it uses the voter arrival process parameters in Vector A or those in Vector B. The statistics for each set of parameter values are based on averages of 20 simulations.

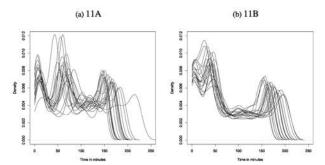
spend a lot of time in line, and this explains why the third quartiles

of the 11B–14B line times increase even though medians do not. This raises an important point. The typical (say, median) line time for a set of voters is one measure of time spent waiting to vote. However, the spread of line times is also important. The inter-quartile range (third quartile minus first) of the overall line times in Table 3 is greater when there is an afternoon surge (see "B" simulations) than when there is not ("A").

Fig. 6 contains another perspective on this point. For Simulations 11A and 11B, this figure plots densities of overall time in line. There are 20 densities per plot, one for each simulation. There is a fair amount of randomness in the plots, but even with this the effects of the pronounced afternoon surge are evident. When there is a surge, as in Fig. 6b, line times are roughly bimodal, with many voters standing in line for a short time and a smaller number, for a long time. In contrast, when there is not a surge, the modes associated with short and long waits are not nearly as pronounced. This is because, in the absence of an afternoon surge, voter arrivals are more uniformly spread out than when there is a surge. Uniform arrivals decrease variance in line times, and this is apparent when

comparing the 11A and 11B densities in Fig. 6.

The line times in Simulations 11A-14A and 11B-14B are all long, certainly excessive compared to the 30-min recommendation we have discussed earlier. However, average overall median line times drop to around ten minutes as soon as the number of voting booths in the Hanover precinct is ten. To see this, consider simu-lations 15A–18A and 15B–18B. In these eight simulations, average median line times are between six and ten minutes, a far cry from the 70 min noted above. Our point here is straightforward. A dramatic drop in waiting time waiting can be achieved at a relatively low cost: two more voting booths. Obviously the extent of this drop depends on voter arrivals, and this is evident in Table 3 as well. But, the broader point is that the marginal value in Hanover of two voting booths is large. From Hanover's perspective, the good news is that 76 voting booths are overwhelmingly sufficient to prevent lines from forming between voter authentication and ballot marking. If, for some reason Hanover voting had to relocate to a smaller physical space for an election or two, the results we have discussed can be used to tell Hanover officials how small a space they can tolerate given a willingness to impose a time tax on voters.



Note: each plot contains 20 densities, representing 20 simulations for a given set of precinct

Fig. 6. Densities of overall line times.

If such officials were content with a ten minute wait, then ten ballot booths is sufficient given the voting step times we observed in November, 2014.

The observed voting data that support the simulations described above rely on a precinct that served over 4000 voters in the 2014 General Election. This large number is an artifact of the way that New England towns administer elections; namely, many towns in the region are not divided into precincts and instead have a single, large voting location. The implication here is that the scale of the numbers in our simulations is a function of the size of the Hanover precinct. The number of voting stations and booths, for example, are appropriate given the scale of the Hanover precinct. Were the precinct to handle, say 500 voters instead of 4,000, we might ask about the marginal difference on lines of one versus two authentication stations as opposed to the marginal difference of four versus five. Qualitatively our simulation would not change were the scale of Hanover to be smaller. ²⁰

8. Discussion

Voting lines are a subject of interest to voters—who must wait in them—to election officials—who presumably care about minimizing congestion at voting locations—and to scholars of election administration and voting rights attorneys—who care about line evolution and whether time spent in line is a tax uniformly distribution among all voters or disproportionately leveled on certain groups thereof. Despite the plethora of reasons to be interested in voting lines, the literature on this subject is nonetheless quite limited.

Our approach to the study of voting lines draws on the fact that voting takes several steps and that an overall voting process can be thought of as a special cases of a queue. The evolution of lines in a queue can be studied if one knows the distribution of arrival times and the distributions of voting-step times, and we have explained how we gathered data on these distributions in Hanover, New Hampshire, during the 2014 General Election. From our perspective, Hanover is a typical voting precinct, and we have supported this point by noting that Hanover in-person voters, like millions of in-person voters across the world, authenticate themselves to election officials, fill out ballots, and then insert or deposit ballots into collective devices. Subtleties notwithstanding, the process that Hanover voters use when casting their ballots is generic.

Our contribution consists of two elements, a data gathering protocol and a simulation. The former used two separate web-based applications, both of which respect voter anonymity and can be conducted unobtrusively, without compromising voting processes. As long as precinc officials allow researchers to observe voting processes, voters can be timed so as to generate distributions of voting-step times. Alternatively, precinct officials can time voters themselves if this is preferable based on local legal arrangements.

Our simulation allows us to estimate the effects on lines of changing resources in Hanover's single voting precinct. As it turns out, this precinct is highly resourced, particularly with respect to voting booths, so much so that lines in November, 2014, were not an issue. However, suppose that Hanover were to transition from 76 voting booths to, say, either eight or ten. And suppose as well that Hanover were to use one tabulating machine instead of two.

Perhaps, say, an unanticipated maintenance issue were to force voting in Hanover to move from the high school where it normally takes place to a location with severe space constraints or that one of town's optical scan machines broke down immediately prior to an election and a replacement was unavailable. Roughly speaking, assuming that the voter arrival process was approximately the same as what our researchers observed, our simulation shows that median line lengths would be over an hour (around 4300 s) if Hanover used one tabulator and eight voting booths and versus around ten minutes if voters had access to two tabulators and ten booths. This shows, namely, that a small change in resources can have very large consequence in voter wait times—irrespective of voter turnout. With this in mind, one might consider the decision faced by the Hanover election supervisor if forced to leave the high school: would a location that houses two tabulators and ten booths be preferable to one that houses one tabulator and eight booths? Based on our simulation, the answer is clearly yes.

Our simulation can also be used to address the question, should a jurisdiction purchase another tabulating machine for a precinct or, say, a set of voting booths/stations whose cost equals a tabulator. To answer this question, one must be able to assess the marginal effects on lines of these different purchases, and we have demonstrated how our simulations can handle this.

Looking beyond such a within-precinct resource allocation

Looking beyond such a within-precinct resource allocation problem—i.e., optical scan machines versus voting boothes—municipalities face tradeoffs involving budgeting for elections and other functions, such as policing, education, and public works. If, say, a municipality were forced to consider the tradeoff between reducing funding for its election day precincts versus adding a partitime substitute teacher at a local elementary school, the municipality would need a way to conceptualize the election-based cost of such a reduction. That said, we have provided here an analytical approach that would inform municipality governance of the cost paid to voters of reduced precinct staffing, and this cost is paid for in minutes spent in line.

We have noted several times that the literature on voting lines is not extensive. With this in mind, we believe that the field of election administration would benefit greatly if common data collection protocols on voter arrival times, voting step times, and precinct resources were established across the American states and beyond. If, for example, there were to exist a central data repository that described empirical distributions of these variables, then researches could develop metrics that quantify the costs—in terms of minutes in line—of particular precinct configurations. Moreover, with data on arrivals, voting step times, and resources, researchers could approach the key question of fairness and consider how to equalize voter experiences across precincts.

equalize voter experiences across precincts.

We conclude by encouraging scholars of election administration to think carefully about the political consequences of voting lines. Our model of line formation is ultimately of service to the extent that it helps us understand what line evolution might do to voters. Earlier we alluded to the political consequences of lines, but it bears repeating here that the twin phenomena of balking (not joining a voting line after seeing it) and reneging (leaving a line after joining it but before voting) may be serious issues that affect perceived election legitimacy. Almost nothing is known about balking and reneging rates in democracies across the world. But, time taxes notwithstanding, if there is a downside to long lines, it is that they might drive away voters. Even small reneging rates—Spencer and Markovits's estimates from the 2008 California Primary are under two percent—can be pivotal in a close election. Future research in the area of election administration should seek to characterize balking and reneging rates and in particular to estimate how these rates respond to line lengths. Are there certain line lengths that will drive voters away? Do voters who were driven away typically voter

²⁰ Implicit in this argument is the idea that, say, a 30 min line to vote in a large precinct is equivalent to a 30 min wait to vote in a small precinct. It seems logical that these two waits would be evaluated similarly by voters insofar as they are both 30 min in duration. Nonetcheless, future research might want to engage the question of whether the scale of a precinct affects voter perceptions, holding wait times constant.

later, or is being deterred once by a long line sufficient to prevent voting? And, are voters more or less likely to tolerate lines in na-

tional elections as opposed to, say, very local elections? Election legitimacy presumably suffers when intended voters run into barriers that prevent them from exercising their rights. Gerber et al. (2013) show that a non-trivial percentage of American voters are skeptical about ballot secrecy, and there is some evidence in Herron et al. (2015) that voters forced to wait in line have greater doubts about election integrity. It behooves scholars to study lines and the correlates so that election officials, whose jobs involve managing and safeguarding elections, may better understand the political consequences of lines and how voters are affected by them.

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The Racial Gap in Wait Times: Why Minority Precincts Are Underserved by Local Election Officials

STEPHEN PETTIGREW

IN THE NOVEMBER 2012 GENERAL ELECTION, 1 in 10 voters waited in line for more than 30 minutes to cast a ballot. About 3.5 million voters waited in excess of an hour, with some standing in line for longer than five hours. Long lines at the polls became such a hot topic in the media that President Barack Obama acknowledged in his victory speech that the issue was one that needed to be fixed. Despite the growing media attention given to the problem of lengthy lines at precincts, ^{1,2,3} little political science work has investigated the determinants of long waiting times.

In this article, I demonstrate that a voter in a predominantly minority precinct experiences a line that is twice as long, on average, than a voter in a predominantly white precinct. Additionally, minorities are three times as likely to wait longer than 30 minutes and six times as likely to wait more than 60 minutes. While the existence of this "racial gap" has been noted

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¹Bob King, "Confusion Reigns among Fla. Voters," Politico, 6 November 2012, accessed at http://www.politico.com/story/2012/11/confusion-reigns-among-fla-voters-083401, 24 June 2017.

²David A. Graham, "Here's Why Black People Have to Wait Twice as Long to Vote as Whites," *The Atlantic*, 8 April 2013, accessed at http://www.theatlantic.com/politics/archive/2013/04/heres-why-black-people-have-to-wait-twice-as-long-to-vote-as-whites/274791, 24 June 2017.

³Jeremy W. Peters, "Waiting Times at Ballot Boxes Draw Scrutiny," New York Times, 4 February 2013, accessed at http://www.nytimes.com/2013/02/05/us/politics/waiting-times-to-vote-at-polls-draw-scrutiny.html. 24 June 2017.

elsewhere, ^{4,5,6} this article is the first to show that for two neighborhoods in the same county or town, the neighborhood that is less white is likely to have a longer line. I show that the majority of the racial gap is explained by this variation within the geographic units that administer elections rather than differences—such as an urban/rural divide—between administrative units. This finding is particularly important because it suggests that local election officials are doing a worse job of serving minority precincts than white ones.

After presenting initial evidence of the racial gap, I discuss how election administration by local county and town officials explains some of the variation in wait times across the country. I then estimate the size of the racial gap that is attributable to both between- and within-jurisdiction factors and compare it with the size of the gap when only within-jurisdiction factors are considered. I find that more than half of the gap in wait times results from within-jurisdiction differences. I then provide a possible explanation for these within-jurisdiction differences by showing that election officials appear to systematically provide more poll workers and voting machines to white precincts than minority ones. I conclude with a discussion of the role played by voter turnout and reflect on whether the findings of the article provide evidence for racial discrimination.

THE RACIAL GAP IN WAIT TIMES

Throughout this article, I rely on survey responses of verified voters in the 2006, 2008, 2012, and 2014 Cooperative Congressional Election Study (CCES).^{7,8,9,10,11} Respondents were asked, "Approximately how long did

⁴Charles Stewart III and Stephen Ansolabehere, "Waiting in Line to Vote" (Working Paper 114, Caltech/MIT Voting Technology Project, 28 July 2013), accessed at http://dspace.mit.edu/bitstream/handle/1721.1/96640/WP%20114.pdf, 24 June 2017.

⁵U.S. Government Accountability Office, Observations on Wait Times for Voters on Election Day 2012 (Washington, DC: U.S. Government Printing Office, 2014), accessed at http://www.gao.gov/assets/670/666252.pdf. 24 June 2017.

⁶Christopher Famighetti, Amanda Melilli, and Myrna Pérez, *Election Day Long Lines: Resource Allocation* (New York: Brennan Center for Justice, 2014), accessed at https://www.brennancenter.org/sites/default/files/publications/ElectionDayLongLines-ResourceAllocation.pdf, 24 June 2017.

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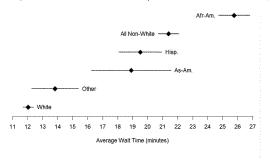
^{9&}quot;2012 Cooperative Congressional Election Study," accessed at http://hdl.handle.net/1902.1/21447, 24 June 2017.

 $^{^{106}}$ 2014 Cooperative Congressional Election Study." accessed at https://doi.org/10.7910/DVN/XFXJVY, 24 June 2017.

¹¹For a discussion of the validity of survey data to measure lines, see the supplementary appendix in the online version of this article.

FIGURE 1

Average Wait Time (with 95% Confidence Intervals) in November 2012 Election, by Voter Race



you wait in line to vote?" and then were presented with five possible responses: "not at all," "less than 10 minutes," "10 to 30 minutes," "31 minutes to an hour," and "more than an hour." Those who waited longer than one hour specified their wait time in an open-ended follow-up. Following the convention used in the literature on wait times, ^{12,13} the responses were coded into minutes. Respondents who fell into the first four categories were recoded to be the midpoint of their response category (that is, 0, 5, 20, and 45 minutes). I used the open-ended responses for those who waited longer than an hour. ¹⁴

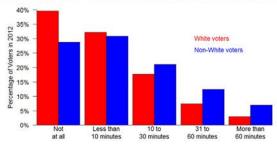
Based on these data, the average voter in the 2012 presidential election waited 14 minutes and 2 seconds to vote. Out of 129 million voters, roughly 11 million (8.8 percent) spent longer than a half hour in line. Three and a half million (2.7 percent) reported waiting more than an hour to cast their ballot. While these numbers are large, if all voters are equally likely to experience a long line, then the problem might be viewed as an inconvenience, but one that lacks broader consequences. On the other hand, if long lines systematically afflict certain groups of voters, then there may be political ramifications to consider.

Figure 1 provides evidence supporting the latter scenario. While white voters waited an average of 12:02, the average nonwhite voter waited

 ¹²Charles Stewart III, "Waiting to Vote in 2012," Journal of Law & Politics 28 (Summer 2013): 439-463.
 ¹³Pew Charitable Trusts, "Elections Performance Index: Methodology," April 2014, accessed at http://www.pewtrusts.org/~/media/Assets/2014/04/07/EPI_methodology.pdf, 24 June 2017.

¹⁴Using an ordered logit to model response categories directly yields the same substantive results. I chose this approach for ease of interpretation. Additionally, recent work suggests that midpoint imputation will tend to attenuate differences in means between subgroups suggesting that the results in this paper may underestimate the size of the racial gap. Indeed, implementing the method laid out in that article provides slightly larger estimates of the racial gap.

FIGURE 2
Distribution of Wait Times for White and Nonwhite Voters in November 2012 Election



almost twice as long, 21:24. The difference is even more pronounced when considering only African American voters, whose average wait was 25:46. This racial gap in wait times was not unique to 2012. In 2008, the average wait time for white voters was 13:40, while that of nonwhites was 23:47. Even in the 2006 and 2014 midterm elections, when low participation decreased the nationwide average wait time, the racial gap persists.

There are also dramatic differences in the distribution of wait times between white and nonwhite voters. Figure 2 shows that in 2012, the percentage of white voters who did not wait to vote (39.6 percent) was significantly larger than for nonwhite voters (28.8 percent). Perhaps even more dramatic, 19.3 percent of minority voters reported a wait of longer than 30 minutes, compared with only 10.5 percent of white voters. And while only 3.0 percent of white voters waited longer than one hour, 7.0 percent of minorities waited at least that long.

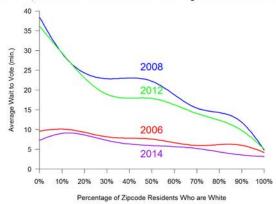
A similar story holds in the 2006, 2008, and 2014 elections. ¹⁶ In 2008, for example, 41.5 percent of white voters experienced no line, but 4.5 percent waited for longer than one hour. In matching the pattern from 2012, nonwhite voters were less likely to experience no line (29.9 percent) and much more likely to wait more than an hour (10.2 percent). Even in low-turnout midterm elections, nonwhite voters are at a disadvantage. In 2014, they were more than twice as likely to wait longer than 30 minutes to vote (4.6 percent) than white voters (1.9 percent).

Although the existing research on lines has dealt with them as an individual-level phenomenon, it is virtually impossible for an individual

¹⁵The appendix includes replications of Figure 1 using data from the 2006, 2008, and 2014 elections.

¹⁶The appendix includes graphs of these distributions in these years.

FIGURE 3 Average Wait Time, Conditional on Election Year and Neighborhood Racial Demographics



voter to experience a long wait without other voters at the same precinct having a similar experience. Thus, voter precincts are the ideal unit of analysis to study lines. Unfortunately, precinct-level data on lines are virtually nonexistent; the most precise level of geographic identification in the CCES data is the respondent's five-digit zip code. Therefore, I consider how neighborhood racial diversity, based on zip code-level census data, correlates with line length. Figure 3 smooths the average wait time across levels of racial diversity and shows that the racial gap persists in the aggregated data. In both presidential and midterm elections, the average wait in 100 percent white neighborhoods is lower than in 100 percent minority neighborhoods.

This evidence demonstrates a persistent pattern of white voters having less of a time burden placed on them at the polls. The question remains whether the racial gap results from predominantly white counties having attributes that decrease wait times compared with more minority-heavy counties, or whether within-county variation suggests that county officials are treating white and nonwhite precincts differently—deliberately or otherwise. After detailing how local election administration can influence lines, I provide evidence to support the latter explanation.

HOW ELECTION ADMINISTRATION CAN AFFECT LINES

Unlike many other countries, the authority to administer elections in the United States is vested in state legislatures. Much of that responsibility is further devolved to bureaucrats and elected officials at the local level. 17,18,19 Most states leave responsibilities such as training poll workers or allocating voting machines to their individual counties, although a handful of states have city or town officials run their elections. The result is that there are more than 8,000 local election officials throughout the country making these administrative decisions.

Given this, an important question is how much of the racial gap in line length can be attributed to differences between these 8,000 counties and towns—which I refer to as *electoral jurisdictions*—and how much can be attributed to decision making within jurisdictions. It could be that rural areas, which have higher concentrations of white voters, have fewer logistical obstacles in administering elections than densely populated urban areas, where black voters tend to live. In this scenario, the racial gap would be a result of differences between counties or towns that administer elections. If, on the other hand, a sizable portion of the racial gap is explained by differences within counties or towns, then we must conclude that minority and nonminority precincts are being handled by election officials in different ways.

In the context of solving the problem of long lines, a substantial amount of between-jurisdiction variance would suggest that more heavily minority counties or towns require an influx of resources or a better regime in training poll workers. Evidence of a racial gap within jurisdictions would suggest that election officials must do a better job of fairly distributing the resources they have.

In my analysis, I regress wait time on neighborhood racial demographics²¹ to establish a baseline for the size of the racial gap that results from both the between- and within-jurisdiction variation. I then include jurisdiction fixed effects in the model to assess the extent to which the racial gap is attributable to differences in racial demographics within a

¹⁷Heather K. Gerken, *The Democracy Index: Why Our Election System Is Failing and How to Fix It* (Princeton, NJ: Princeton University Press, 2009).

¹⁸Daniel P. Tokaji, "The Future of Election Reform: From Rules to Institutions," Yale Law & Policy Review 28 (Fall 2009): 125–154.

¹⁹Richard L. Hasen, The Voting Wars: From Florida 2000 to the Next Election Meltdown (New Haven, CT: Yale University Press, 2012).

²⁰Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and Wisconsin.

²¹I use aggregate racial demographics as the covariate of interest rather than individual race because long lines are afflict entire precincts, not individual voters. In the absence of blatant expressions of racial discrimination, such as having separate lines for different races, there is not a coherent story to tell about how an individual African American voter could be forced to wait in line longer than white voters at the same precinct. Therefore, I am more concerned with neighborhood demographics than individual racial characteristics, although the two will be correlated.

jurisdiction.²² If the coefficient from the fixed-effects regression is reduced but still substantively large compared with the baseline coefficient, this suggests that a sizable part of the racial gap results from election officials handling white and minority precincts within their jurisdiction differently.

The literature provides several explanations for between-jurisdiction variation in wait times. One is that jurisdictions in which voters cast ballots on computerized direct-recording electronic (DRE) machines tend to have longer average wait times than those with optical scan systems, which use a paper ballot and optical scanning system. ²³ In 2012, the average wait time in jurisdictions that used DREs was 17:34 (SE = < 1 second), while the average wait time for a voter in an optical scan jurisdiction was 11:23 (SE = < 1 second). The main reason for the discrepancy is that DRE systems, which require expensive computer stations, are much less scalable than optical scan systems, which require an extra table and privacy dividers.²⁴ Jurisdiction fixed effects will account for this variability because voting technology is almost entirely constant within a jurisdiction. In 2012, 64.9 percent of jurisdictions used optical scan systems, while 30.7 percent used DREs.25

Another factor that can impact wait times and is mostly constant within a jurisdiction is the length of the ballot. Ballot length has a strong positive correlation with lines, 26 and queueing theory tells us that when a system includes multiple points of service—that is, a check-in station and a ballot casting station—a backlog anywhere in the system will create backlogs at all previous points of service.²⁷ Therefore, when a long ballot causes all vote-casting stations to fill, lines will develop for those waiting to check in.

²²The approach is akin to a differences-in-differences estimator. Rather than leveraging variation in the treatment over time however, I am taking advantage of differences in the "treatment" (racial demographics) within an election administrative unit to estimate the impact on line length.

²⁹William A. Edelstein and Arthur D. Edelstein, "Queueing and Elections: Long Lines, DREs and Paper Ballots" (paper presented at the Electronic Voting Technology Workshop, Washington, DC, 9-10 August 2010), accessed at http://static.usenix.org/event/evt/tech/full_papers/Edelstein.pdf, 12 June 2017.

²⁴Optical scan systems still require ballot scanners, but scanning the ballot takes much less time than it takes to vote on a DRE. In November 2014 in Boston (an optical scan jurisdiction), it took, on average, 19 seconds between completing the ballot and completing the scanning process. In contrast, voters in Orange County, Florida took an average of 8 minutes to fill out their ballots on the DRE machines. See Charles Stewart III, "Managing Polling Places Resources" (report, Caltech/MIT Voting Technology Project, November 2015), accessed at https://shass.mit.edu/files/shass/cimg/news/2015/Poli%20Sci%20FINAL %20print.pdf, 12 June 2017.

²⁵Most of the remaining jurisdictions use a mixture of the two systems. A handful of tiny jurisdictions use paper ballots. As of 2012, no jurisdictions used lever voting machines, and only four small Idaho counties used punch card systems.

⁶Edelstein and Edelstein, "Queueing and Elections."

 $^{^{27}}$ Donald Gross, John F. Shortle, James M. Thompson, and Carl M. Harris, Fundamentals of Queueing Theory (Hoboken, NJ: Wiley, 2008).

TABLE 1
How Did Neighborhood Demographics Impact Average Wait?

	(1)	(2)	(3)	(4)
White Pct	-14.177***	-17.386***	_7.930***	-12.139***
	(0.286)	(0.561)	(0.430)	(0.743)
Juris. fixed effects			∠	<i>i</i>
Additional controls		1		1
Observations	91,907	78,102	91,907	78,102
R^2	0.066	0.083	0.196	0.227

Note: *p < 0.05; **p < 0.01; ***p < 0.001

Ordinary least squares regression coefficients with standard errors clustered by jurisdiction. Standard errors are in parentheses.

The fixed-effects approach, which is equivalent to including a dummy variable for each jurisdiction in the regression, accounts for ballot length and also controls for other known or unknown factors that may vary between but not within jurisdictions. These factors include the type of training that poll workers receive, the professionalism of the election administration process, and the total number voting machines and poll workers available. Jurisdiction fixed effects also control for state laws or regulations that may impact line length, most notably, voter identification laws, as well as jurisdiction demographics and other aggregate voter characteristics that do not vary within a county or town.²⁸

ESTIMATING THE RELATIONSHIP BETWEEN RACIAL DEMOGRAPHICS AND AVERAGE LINE LENGTH

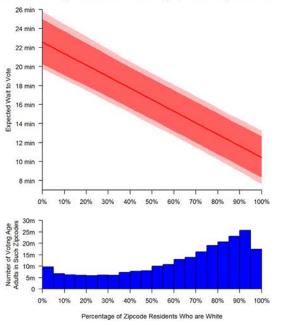
Table 1 displays the results of several linear regression models of line length on the percentage of people in a zip code who are white. ²⁹ All models include year fixed effects; Models 3 and 4 include jurisdiction fixed effects as well. Models 2 and 4 account for additional demographic control variables. ³⁰ The models control for population density, percentage of residents over 65 years old, median income, and percentage of English speakers at the zip code level using census data and race, age, party, and early voting at the individual voter level. Table 1 shows that the total size of the racial gap in wait times—including both between- and

 $^{^{28}}$ David C. Kimball, "Why Are Voting Lines Longer for Urban Voters?" (paper presented at the Southwestern Social Science Association Annual Conference, New Orleans, LA, 27–30 March 2013), accessed at http://www.umsl.edu/~kimballd/SSSA13-Kimball.pdf, 12 June 2017.

²⁹The conclusions presented here do not change when an ordered logit model is used to estimate the effects. Similarly, the results are robust to allowing for nonlinearities in the covariate of interest. I chose to present the ordinary least squares estimates with a linear specification for ease of interpretation. For the full version of this table, including the covariate parameter estimates, see Appendix A.

³⁰The full results are available in the appendix online.

FIGURE 4
Marginal effect of Neighborhood Racial Demographics on Expected Wait Time



within-jurisdiction variation—is 14.18 minutes (without controls; SE = 0.29) or 17.39 minutes (with controls; SE = 0.56). In other words, the difference in wait time between an area that is 0 percent white and one that is 100 percent white is about a quarter of an hour.

Including jurisdiction fixed effects, as in Models 3 and 4, does not cause the racial gap to disappear; in fact, more than half of it remains. In the model without control variables, the average racial gap is 7.93 minutes (SE=0.43), which represents 55.9 percent of the overall gap from Model 1. When demographic controls are included, the impact of within-county variation is even more pronounced. The racial gap estimate of 12.14 (SE=0.74) from Model 4 is 69.8 percent the size of that from Model 2. These findings suggest that a substantial amount, or perhaps majority, of the difference in wait times between whites and nonwhites results from differences within an election administrator's jurisdiction.

To further illustrate the magnitude of the within-jurisdiction impact of neighborhood demographics, Figure 4 presents the expected wait time (with 95 percent and 99 percent confidence intervals) at different levels of neighborhood racial composition.³¹ The top of the figure shows that for an entirely nonwhite zip code, the average wait time was 22.55 minutes (SE=1:18), while for an entirely white zip code, the wait was just 10.43 minutes (SE=1.08). The bottom of the figure highlights that although most Americans live in mostly white zip codes, there are tens of millions of voters in neighborhoods with high expected wait times.

While the relationship between race and average wait time is striking, the racial gap is even clearer when we consider the probability of experiencing an unacceptably long wait. Survey evidence suggests that the typical American places the threshold of acceptable wait time to vote somewhere between 30 and 60 minutes,³² so I collapsed the data into two dummy variables based on whether the respondent waited longer than 30 minutes or longer than 60 minutes.³³

Using covariate specifications identical to those in Table 1, I estimated two sets of logistic regression models in which the outcome is whether the voter waited in a long line (more than 30 minutes or more than 60 minutes). The full results of these regressions, which are provided in Appendix A, are entirely consistent with the story that white neighborhoods are much less likely to experience long lines at their precinct. The results provide further evidence that at least half of the racial gap in wait times is attributable to within-county variation in how elections are run.

Figure 5 reports the predicted probabilities of waiting in a 30- or 60-minute line given the racial makeup of a neighborhood.³⁴ For the millions of voters who live in predominantly nonwhite neighborhoods, their chances of waiting at least 30 minutes are roughly one in four (25.8 percent). That is more than triple the probability for voters in white neighborhoods, where the probability is 8.2 percent. The gap is even more profound when it comes to lines that exceed an hour. There is a 12.9 percent probability of a voter from a nonwhite neighborhood waiting more than an hour, compared with just 1.9 percent at the other end of the demographic spectrum.

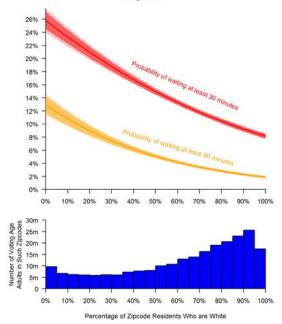
These results support the conclusion that a substantial proportion—and perhaps most—of the racial gap in wait times results from how white and nonwhite precincts within the same administrative jurisdiction are

 $^{^{31}}$ This figure is based on the results of Table I, Model 4, with all ancillary covariates were set to their means. $^{32\alpha}$ 2013 Cooperative Congressional Election Study-MIT Module."

³³An added benefit of this approach is that it does not require imputing continuous time values for the categorical survey responses.

³⁴These figures are based on the results of Model 4 from Tables 3 and 4.

FIGURE 5 Marginal Effect Of Neighborhood Racial Demographics on the Probability a Voter Experiences a Long Line



handled. In the following section, I provide a potential explanation why there is such tremendous variation in wait times within jurisdictions.

MINORITY PRECINCTS RECEIVE FEWER RESOURCES THAN WHITE PRECINCTS

Perhaps the most important factor in determining how long a line to expect on Election Day is the number of resources-particularly voting machines and poll workers—that are provided to a precinct. If every precinct had a huge number of voting machines and poll workers, then every voter who arrived would be able to immediately check in and fill out their ballot without a delay. As resource allocation decreases, the strain on the system -and thus the length of the line-will increase. Once a precinct reaches its full operational capacity, the length of the line will increase exponentially, not linearly.35 Given that local governments are constrained by the

³⁵Gross et al., Fundamentals of Queueing Theory.

TABLE 2
How Do Precinct Racial Demographics Correlate with Allocation of Resources to Precincts?

	Registrants per Poll Worker (1)	Registrants per Voting Machine (2)
Intercept	196.948***	336.571***
	(10.482)	(41.065)
Pct. White in Precinct	-0.228***	-0.915***
	(0.055)	(0.192)
Observations	5,228	6,601
R ²	0.352	0.609

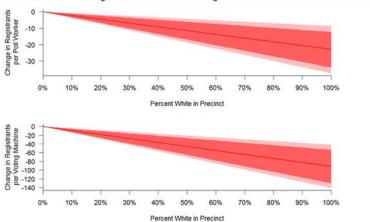
Note: *p < 0.05; **p < 0.01; ***p < 0.001

Ordinary least squares regression coefficients with standard errors clustered by county. Country fixed effects included. Standard errors are in parentheses.

availability of resources, a major responsibility of a county or town election administrator is to decide how many resources to place in each precinct. In this section, I demonstrate that precincts that have higher concentrations of white voters tend to receive larger numbers of poll workers and voting machines than precincts with more minority voters.

While there is no comprehensive precinct-level database about Election Day resources, Famighetti, Melilli, and Pérez collected precinct-level voting machine and poll worker allocation data from 6,600 precincts in Florida, Maryland, and South Carolina during the November 2012 election. Table 2 shows that the percentage of white voters in a precinct is a significant predictor of resource allocation. In the case of both poll workers and voting machines, precincts that have a higher proportion of white

FIGURE 6
How Does Poll Worker and Voting Machine Allocation Change as a Precinct Becomes More White?



voters have fewer registered voters per resource. Figure 6 uses these results to illustrate that as the size of the white population in a precinct increases, the allocation of resources per registered voter becomes increasingly generous. On average, a mostly white precinct has about 20 fewer registered voters per poll worker than an primarily minority precinct. Likewise, white precincts have 90 fewer registrants per voting machine compared with minority precincts.

These differences are substantial and consequential. In an average-sized minority precinct that is open for 12 hours on Election Day, voting machines must serve an additional 7.5 registered voters per hour—an additional voter every 12 minutes. During a high-turnout presidential election, most precincts are stretched thin as a result of lack of resources. ³⁶ Figure 6 shows why the problem is even worse in minority precincts, where there are fewer machines and poll workers to begin with.

DISCUSSION: IS THIS RACIAL DISCRIMINATION?

In this article, I have shown that a majority of the racial gap in wait times can be attributed to factors that vary within election administration jurisdictions. I have also provided evidence that one of these factors is that white precincts tend to get a larger allocation of voting machines and poll workers than nonwhite precincts. The important remaining question, then, is whether these facts should be taken as evidence of racial discrimination.

Perhaps the most obvious argument to counter the claim of discrimination is that recently there have been big changes in voter turnout patterns by race. The fixed-effects models eliminate any variation in turnout between counties, but there is still variation in turnout within a county or town. The lack of data makes it challenging to empirically test the impact of turnout. Precinct-level turnout data are available for recent elections, but I cannot match CCES respondents to specific precincts.37

Even without the ideal data, it is still possible to consider how turnout impacts the results of this article. One might argue that the racial gap is a phenomenon unique to the 2008 and 2012 elections, resulting from an "Obama effect." Historically, turnout tends to be higher in areas with a

 $^{^{36}}$ Lawrence Norden and Christopher Famighetti, $America's\ Voting\ Machines\ at\ Risk\ (New\ York:\ Brennan$ Center for Justice, 2015), accessed at https://www.brennancenter.org/sites/default/files/publications/ Americas_Voting_Machines_At_Risk.pdf, 12 June 2017.

³⁷Nor is it possible to identify the zip code of precincts in a systematic way, particularly going back in time. One county in Texas, for example, lists "American Legion" as the location of one of its precincts. There are several American Legions in the county, and it is it not possible to determine which one is the precinct because no additional identifying information is provided.

higher concentration of white voters. \$38,39,40\$ Election officials may use this as a reasonable justification for allocating additional resources to white precincts, where demand is typically highest. In 2008 and 2012, there was a surge in minority voting across the country, surpassing white turnout in many areas. *1 An election official could argue that this surge in 2008 created unpredictable swings in turnout, making it difficult to allocate resources. In 2012, however, election officials cannot make the same argument since they had four years to adjust their allocation strategy. The fact that the gap was nearly the same size in 2012 as 2008 suggests that election administrators are even less responsive to anticipated shocks to turnout than is required to make election run smoothly in all precincts.

Perhaps the best reason to think that much of the racial gap is not a result of the Obama effect is that the gap exists in the 2006 and 2014 midterm elections, when Obama was not on the ballot. White turnout in 2014, especially among conservatives, was particularly high compared with minority turnout, which should have put more strain on white precincts. Yet in that year, African American voters waited more than twice as long, on average, than white voters. Additionally we know that voting is habit forming, 42,43 so even if the racial gap in 2008 and 2012 came from first-time minority voters, we should expect a large proportion of them to continue voting in future elections. Sticking to the old rules of resource allocation will cause the gap in wait times for different racial groups to persist.

The more important point is that even if the racial gap is explained by shifts in voter turnout, election officials could be doing a better job of anticipating these shifts. It is difficult to imagine an election official would intentionally decide to provide fewer poll workers or voting infrastructure to a minority precinct, simply because of its racial composition. But prior research has shown that low socioeconomic status individuals are less likely to file complaints with the government, so officials might anticipate

³⁸Sidney Verba, Kay Lehman Schlozman, and Henry E. Brady, Voice and Equality: Civic Voluntarism in American Politics (Cambridge, MA: Harvard University Press, 1995).

³⁹Steve J. Rosenstone and John Mark Hansen, Mobilization, Participation, and Democracy in America (New York: Macmillan, 1993).

⁴⁰Raymond E. Wolfinger and Steven J. Rosenstone, Who Votes? (New Haven, CT: Yale University Press, 1980).

⁴¹Michael Tesler and David O. Sears, Obama's Race: The 2008 Election and the Dream of a Post-Racial America (Chicago: University of Chicago Press, 2010).

⁴²Markus Prior, "You've Either Got It or You Don't? The Stability of Political Interest over the Life Cycle," *Journal of Politics* 72 (July 2010): 747-766.

⁴³Alan S. Gerber, Donald P. Green, and Ron Shachar, "Voting May Be Habit-Forming: Evidence from a Randomized Field Experiment," *American Journal of Political Science* 47 (July 2003): 540–550.

more complaints if they underallocate resources to white precincts, where income levels tend to be higher. 44,45,46

Additionally, resources such as poll workers and voting machines are scarce and indivisible. If one precinct has 75 voters and another has 100 voters, and there are three voting machines to allocate, the optimal solution is to give one machine to the smaller precinct and two machines to the larger precinct. This will create longer lines in the smaller precinct. Better data on precinct resource allocation rules could assess the extent to which this dynamic may explain the racial gap.

I have shown in this article that the racial composition of a voter's neighborhood is strongly tied to how long he or she will wait in line to vote. A substantial amount of the gap between white and nonwhite wait times is a result of local factors, which provides policymakers a way forward in addressing the problem. Future research could apply the solutions of discrete optimization problems to the topic of resource provision in elections.

⁴⁴H. George Frederickson, Social Equity and Public Administration: Origins, Developments, and Applications (Armonk, NY: M.E. Sharpe, 2010).

⁴⁵Bryan D. Jones, Saadia R Greenberg, Clifford Kaufman, and Joseph Drew, "Service Delivery Rules and the Distribution of Local Government Services: Three Detroit Bureaucracies," Journal of Politics 40 (May 1978): 332-368.

⁴⁶ Kenneth R. Mladenka, "The Urban Bureaucracy and the Chicago Political Machine: Who Gets What and the Limits to Political Control," American Political Science Review 74 (December 1980): 991-998.

APPENDIX A

TABLE A1
How Did Neighborhood Demographics Impact Average Wait?

	(1)	(2)	(3)	(4)
Intercept	16.504***	6.671***		
	(0.259)	(0.945)		
White Pct	-14.177***	-17.386***	-7.930***	-12.139***
	(0.286)	(0.561)	(0.430)	(0.743)
Population Dens.		0.0001***		0.0002**
		(0.00001)		(0.00002)
Pct. over 65		5.305**		-1.400
		(1.640)		(2.051)
Median Income		0.066***		0.048***
		(0.004)		(0.006)
Pct. Speak Eng.		10.929***		12.906***
, ,		(0.777)		(1.030)
AfrAmer.		5.480***		3.593***
		(0.333)		(0.323)
Hispanic		0.773*		-0.131
		(0.368)		(0.357)
Asian-Amer.		0.706		2.712***
		(0.801)		(0.764)
Other race		-0.614		-0.110
		(0.419)		(0.405)
Age		-0.027		-0.014
.9-		(0.031)		(0.030)
Age ²		-0.0005		-0.001
.9.		(0.0003)		(0.0003)
Party: Indep.		0.402		0.190
arty. maop.		(0.287)		(0.277)
Party: Repub.		-0.627**		-0.905***
arty. riopas.		(0.199)		(0.194)
Early Voter		5.537***		5.556***
carry votor		(0.230)		(0.254)
2008	9.385***	8.125***	9.836***	8.725***
2000	(0.239)	(0.260)	(0.231)	(0.250)
2012	7.271***	6.321***	7.553***	6.728***
2012	(0.206)	(0.226)	(0.200)	(0.219)
2014	-1.784***	-1,441***	-1.563***	1.027***
2014	(0.210)	(0.274)	(0.204)	(0.265)
Juris. fixed effects			~	~
Observations	91,907	78,102	91,907	78,102
\mathbb{R}^2	0.066	0.083	0.196	0.227
Adjusted R ²	0.066	0.083	0.171	0.199

Note: *p < 0.05; **p < 0.01; ***p < 0.001

Ordinary least squares regression coefficients with standard errors clustered by jurisdiction. Intercept not calculated with fixed effects models. Standard errors are in parentheses.

TABLE A2

How Did Neighborhood Demographics Impact the Probability of Waiting More Than
30 Minutes?

	(1)	(2)	(3)	(4)
Intercept	-2.112***	-2.112***	-3.662***	-4.392***
	(0.046)	(0.046)	(0.648)	(0.675)
White Pct	1.670***	1.670***	-0.940***	-1.231***
	(0.044)	(0.044)	(0.074)	(0.115)
Population Dens.				0.00002***
				(0.00000)
Pct. over 65				-1.043**
				(0.368)
Median Income				***800.0
				(0.001)
Pct. Speak Eng.				0.973***
				(0.162)
AfrAmer				0.203***
				(0.048)
Hispanic				-0.065
				(0.062)
Asian-Amer.				0.266*
				(0.119)
Other race				0.118
				(0.072)
Age				0.001
				(0.005)
Age ²				-0.0001
				(0.0001)
Party: Indep.				0.059
				(0.050)
Party: Repub.				-0.135***
				(0.034)
Early Voter				0.485***
				(0.040)
2008	1.487***	1.487***	1.716***	1.629***
	(0.045)	(0.045)	(0.048)	(0.050)
2012	1.232***	1.232***	1.375***	1.312***
	(0.042)	(0.042)	(0.045)	(0.048)
2014	-0.530***	-0.530***	-0.525***	-0.538***
	(0.055)	(0.055)	(0.057)	(0.074)
Juris. fixed effects			~	₩
Observations	91,907	91,907	91,907	78,102
Log Likelihood	-24,786.620	-24,786.620	1,395.000	-20,190.980
Akaike Inf. Crit.	49,583.250	49,583.250	2,790.000	45,961.960

Note: *p < 0.05; **p < 0.01; ***p < 0.001

Linear probability model with standard errors clustered by jurisdiction. Standard errors are in parentheses.

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TABLE A3

How Did Neighborhood Demographics Impact the Probability of Waiting More Than
60 Minutes?

	(1)	(2)	(3)	(4)
Intercept	-3.312***	-3.312***	5.253***	6.873***
	(880.0)	(880.0)	(1.280)	(1.317)
White Pct	2.253***	-2.253***	-1.264***	-1.899***
	(0.073)	(0.073)	(0.123)	(0.184)
Population Dens.				0.00003***
				(0.00001)
Pct. over 65				-0.224
				(0.576)
Median Income				0.010***
				(0.002)
Pct. Speak Eng.				1.732***
				(0.265)
AfrAmer				0.053
				0.076
Hispanic				0.122
				(0.104)
Asian-Amer.				0.097
				(0.213)
Other race				-0.166
				(0.132)
Age				0.016
. 2				(0.009)
Age ²				-0.0003**
				(0.0001)
Party: Indep.				0.021
D 1 D 1				(0.089)
Party: Repub.				-0.052
5-1-17-1				(0.059)
Early Voter				0.865***
2008	1,929***	1.929***	2.264***	(0.063) 2.062***
2012	(0.087)	(0.087)	(0.093)	(0.096)
	1.469***	1.469***	1.705***	1.531***
2014	(0.085)	(0.085)	(0.090)	(0.094)
	-1.196*** (0.100)	-1.196*** (0.100)	-1.089***	-1.124***
	(0.138)	(0.138)	(0.142)	(0.185)
Juris. fixed effects			~	₩
Observations	91,907	91,907	91,907	78,102
Log Likelihood	-9,948.267	-9,948.267	1,395.000	7,370.696
Akaike Inf. Crit.	19,906.530	19,906.530	2,790.000	20,321.390

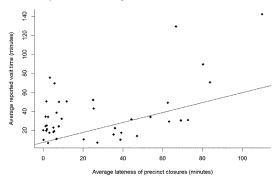
Note: *p < 0.05; **p < 0.01; ***p < 0.001

Linear probability model with standard errors clustered by jurisdiction. Standard errors are in parentheses.

APPENDIX B: VALIDITY OF SURVEY-BASED MEASURES OF WAIT TIMES

One potential concern with using survey data to estimate wait times is that respondents who wait in long lines might be more likely to recall how long they waited than those who only waited a few minutes. Psychology research has shown that the relationship between an individual's perception of time

FIGURE 7
How Much Do Objective and Survey-Based Measures of Wait Times Correlate?



and actual time is linear. ⁴⁷ This implies that people who reported waiting longer in line did actually wait longer in line.

In the context of this article, for recall bias to impact the results, it must be the case that the bias is operating differently for white and nonwhite voters. There is no clear reason to believe that nonwhite voters who wait in a long line are more (or less) likely to report doing so than white voters who wait in a long line.

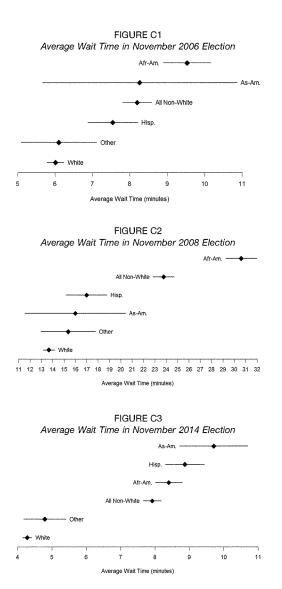
Another potential source of bias is from media reports about long lines at minority precincts predisposing minority voters to report longer lines. I subset the data to only include respondents with a verified record of voting, so for media effects to drive my conclusions, they would have to trump the impact that a voter's actual voting experience has on their survey response. The racial gap so large that even a modest amount of bias is unlikely to account for the entirety of the gap.

Although most counties and towns do not collect "objective" measures of line length in their precincts, there are a handful that do in the form of closing times of precincts. Because anybody in line at the end of the designated closing time is allowed to cast a ballot, the delay between the designated and true closing times provides a proxy for the line length at the precinct. Using Famighetti, Melilli, and Pérez's data from 41 counties in three states in 2012, I regressed the county average wait time—from the CCES responses—on the average delay in precinct closing time. I find a positive and statistically significant relationship ($\beta = 0.524$ (0.1328); p < .001; $R^2 = 0.284$). Figure 7 shows a scatterplot of this relationship.

⁴⁷Lorraine G. Allan, "The Perception of Time," Perception and Psychophysics 26 (September 1979): 340–354.

In the absence of nationwide objective measures of line length, survey responses provide a reliable measure.

APPENDIX C: AVERAGE WAIT TIME BY RACE IN VARIOUS ELECTIONS



APPENDIX D: DISTRIBUTION OF WAIT TIMES BY RACE IN VARIOUS ELECTIONS

FIGURE D1
Distribution of Wait Times for White and African Americans in November 2006 Election

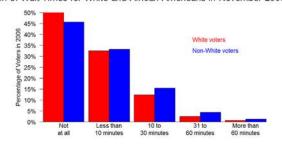


FIGURE D2
Distribution of Wait Times for White and African Americans in November 2008 Election

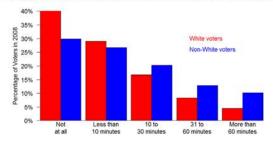
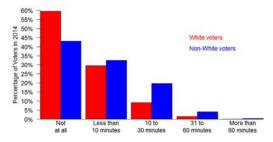


FIGURE D3
Distribution of Wait Times for White and African Americans in November 2014 Election



Assessing the Efficacy of Early Voting Access on Indian Reservations: Evidence from a Natural Experiment in Nevada

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Abstract: An emergency legal injunction in Nevada granted two Indian reservations on-site early voting locations in the 2016 general election. These locations were two of four remote reservations participating in an academic survey to examine Native attitudes toward government and voting. The granting of only two locations out of the four creates reasonable conditions to treat the four cases as a natural experiment in on-site early voting. These cases also add to very limited existing knowledge about factors affecting voting behavior on Indian reservations and the impact of early voting sites in rural locations. We find that on-site early voting substantially increased voter turnout in the general election on the two reservations that received access in comparison to the two without satellite voting. We find little evidence that the reservations that received the voting sites were particularly likely to have high turnout in 2016. These findings provide supportive evidence that reducing the cost of voting by providing convenient locations and longer periods to cast a ballot increases voter turnout, including in groups with limited means to vote and low government trust.

Keywords: Native Americans, voting behavior, trust, rural voting, early voting, satellite voting

Introduction

On October 3, 2016, Judge Miranda Du of the United States District Court of Nevada issued an emergency injunction establishing satellite centers for early voting on the Pyramid Lake and Walker River Indian Reservations for the 2016 general election (*Sanchez v. Cegavske* 2016). Judge Du ruled that the state and counties had violated Section 2 of the 1965 Voting Rights Act by failing to provide the reservations with equal access to the vote. She ruled that individuals on the reservations faced an "abridgement" of their voting rights due to unequal access caused by travel distance combined with economic and socio-demographic factors (Schroedel and Saporito 2017).

This ruling created the conditions necessary for a "natural experiment" examining the impact of early voting sites on Native American turnout in the 2016 general election. It allows us to compare turnout on four northern Nevada reservations, two that gained early voting satellites and two that did not gain early voting satellites. The populations on the Duck Valley and Yerington Reservations are quite similar to those on the Pyramid Lake and Walker River Reservations but they did not get the "treatment effect" of gaining early voting satellites. We also draw upon interviews and survey research from the reservations which allow us to bridge qualitative and quantitative approaches in our natural experiment (Brady and Collier 2004).

Voting, as Aldrich (1993) noted, is a "marginal activity" that drops when the cost is high. Native Americans living on reservations in the West arguably face higher voting costs than any other group in the country. Attorney General Eric Holder went so far as to describe the barriers faced by Native Americans as "not only unacceptable, but outrageous" (D'Oro 2014). Native Americans face the same conditions that reduce electoral participation among other minority populations, as well as additional barriers related to the geographic isolation of reservations

(Schroedel and Hart 2015). They often must travel very long distances and go to "border towns" with histories of racial animus in order to register and vote (Massey 2015a; Massey 2015b; United States Commission on Civil Rights 2011). This is the first study examining the question of whether reducing the "cost" of voting has a measurable impact on Native voting on reservations.

Even small increases in distances to polling locations or ballot drop boxes has been found to decrease turnout (Collingwood, McGuire, O'Brien, Bair, and Hampson 2018; Gimpel and Schuknecht 2003; Haspel and Knotts 2005; McNulty, Dowling, and Ariotti 2009). While one might expect reducing travel costs would result in higher levels of participation, the results have been mixed at best. Most studies have found a substitution effect in which high propensity voters switch from Election Day voting at polling places to some form of convenience voting, such as early voting at satellites (Berinsky 2005; Gronke 2008; Neeley and Richardson 2001). Berensky, Burns, and Traugott (2001) use the terms "resource rich" and "resource poor" voters, but regardless of the terms used, minority voters are included within the latter group, with the former benefitting from convenience voting.

With respect to early voting sites, one study (Canon, Mayer, and Moynihan 2014) paradoxically found that putting in early voting sites actually reduced turnout. The authors posited that the decline was due to decreased efforts by campaign to mobilize voters. This, however, is not likely to apply if early voting is placed on reservations because there is limited if any Get Out the Vote (GOTV) efforts by campaigns and parties in their communities, according to Healy (2019a) from Four Direction, a grass roots non-profit engaged in Native electoral engagement. Native Americans, particularly those living on rural reservations, arguably are the nation's most "resource poor" population, so this study is an important first step in determining

whether dramatically reducing the cost of voting by providing a form of convenience voting can increase turnout among low propensity voters.¹

This is the first study examining the impact of early voting satellites on voter turnout among a target population comprised of low propensity and very "resource poor" voters who have very high travel costs to vote. In her ruling Judge Du noted the "totality of circumstances" combined with the travel distance barrier constituted "abridgement" of the right to vote in violation of Section 2 of the Voting Rights Act. We test in a natural experiment setting whether altering the cost of voting for low propensity voters, holding other factors constant, can result in increased electoral participation. In contrast to much of the existing research on this topic, our results suggest that lowering costs can increase electoral participation, at least for this subset of "high risk" voters with unusually high barriers to participation.

Our study is divided into three sections. The first section lays out our theoretical framework, showing how the "calculus of voting" model applies to Native American voting on reservations. The model assumes that citizens evaluate the costs and perceived benefits of voting (Downs 1957; Gronke 2008; Niemi 1976). In assessing the "cost" side of the calculus, we consider both the personal attributes of potential voters as well as the travel distance barrier. We also explain why voting by mail is not a viable option for Native Americans on reservations. Then we turn our attention to the "perceived benefit" part of the calculus. An individual's sense of political efficacy and political trust affect whether one believes they are likely to benefit from

¹ It is not clear whether results from this natural experiment can be extended to other "resource poor" populations (e.g., racial and ethnic minorities), given the many unique characteristics and barriers faced by Native Americans on reservations. However, increasing Native voting has positive spillover effects for other minorities in terms of promoting shared partisan and policy interests. Native Americans overwhelmingly support Democratic candidates, as do most African American and Latino voters, hence they have a shared interest in promoting high turnout among all of those groups. As Terry (2016) noted, voting barriers that decrease minority turnout have policy consequences, in that officials will be more likely adopt conservative policies. See also Carr, Schildkraut, and Rank (2017) and Bentele and O"Brien (2013).

participating in politics (Anderson 2010; Morrell 2003; Zmerle and van der Meer 2017), and we provide survey evidence showing these generally are not present in our target population. In the second section, we describe the natural experiment and data that show that our "treatment" and "control" reservations are roughly comparable. We compile evidence from a survey conducted on those four reservations just prior to the election, socioeconomic data from census sources, and voting results from the election boards in Nevada. In the final section, we present results that are consistent with the calculus of voting—if voting is made easier, low frequency voters from reservations participate at higher rates, even when the perceived benefits remain unchanged. We compare turnout data from the four reservations and test for significance using difference of means tests and fixed effects regressions.

The Calculus of Voting for Native Americans on Reservations

Individual characteristics, as well as impediments to access, have clear theoretical and empirically-demonstrated impacts on turnout (Rosenstone and Hansen 1993). Every variable that works against voting participation is present in reservation populations: physical distance, physical impedance, low socio-economic status, low sense of political efficacy, and lack of political trust. We outline these conditions in this section, drawing upon novel survey results to bolster our claims.

Costs of Voting

Socio-demographic and economic status has a major effect on political participation (Bartels 2009; Wolfinger and Rosenstone 1980). Weeks (2013) found that individuals whose income places them below the poverty line are "roughly half as likely to vote in presidential elections and a third as likely to vote in mid-term elections as people at the top." Native

American reservations are among the poorest areas within the United States (Kaufman, Dicken, and Williams 2017). Data from the American Community Survey (U.S. Census Bureau 2018) shows that the poverty rates among the people living on the four reservations are roughly twice the national average. Twenty-five percent of Pyramid Lake Reservation residents, thirty-one percent of Walker River residents, and approximately twenty-three percent of individuals in Duck Valley and Yerington live below the poverty line. Further compounding the problem of poverty is the fact that educational attainment among Native Americans on these four reservations is very low.² A Senate report issued as part of the 1982 renewal of the Voting Rights Act identified socio-demographic and economic factors as constituting "totality of circumstances" relevant in voting rights litigation (U.S. Senate Report).

Reservations typically are located in rural areas, which means their travel distances are much higher than most voters encounter. Figure 1 shows GIS mapping of the routes from the main population centers of the four reservations to their nearest in-person voting sites. Nixon on the Pyramid Lake Reservation is 48 miles each way from voting sites in Reno. Reno is the closest place with access to in-person or early voting since the county previously closed an Election Day polling place in Nixon. The situation is similar on the Walker River Reservation, where the town of Shurz is 34 miles from the county seat in Hawthorne. People at the Duck Valley Reservation, which also has no Election Day polling place, have to travel 100 miles in each direction to the county seat in Elko for in person voting. Residents of the Yerington Reservation need to drive 17 miles roundtrip to the town of Yerington for in person or early

² According to the 5-year estimate of the American Community Survey, the level of educational attainment for Native Americans in these counties (Elko, Churchill, Washoe, Lyon and Mineral) is extremely low. The percentages of Native American men with college degrees or better ranges from 1.2% to 9%, while among Native American women, the range is from 2.3% to 6.5%. The comparable overall rate in Nevada is 23.7% (U.S. Census Bureau 2018).

voting access. Providing access on the reservation reduced travel distance to less than two miles each way, on average.

The direct cost of travel (distance, gas, travel time) in three out of four cases is extraordinarily high. The 2016 American Community Survey reports that the average gross income in Nevada is \$53,094, but the average gross income is \$26,119 among Native Americans in the study (U.S. Census 2018). According to the Department of Energy, a Nevada resident paid \$972 on average for a years' worth of regular gasoline in 2016 (U.S. Department of Energy 2016). The majority of residents of the state live in Las Vegas or Reno where travel distances are much shorter, and gasoline is somewhat cheaper. Assuming individuals have access to a vehicle, which is not a safe assumption, travel cost is much higher, and the distances required much farther for prospective voters on rural reservations. For low income individuals, the cost of gasoline and taking time off from work is a much greater relative burden.

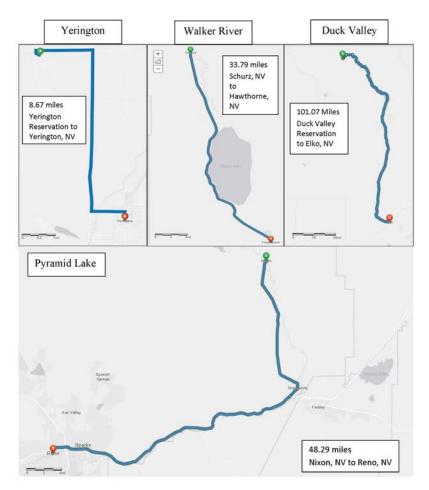


Figure 1: Travel Distance to Yerington, Walker River, Duck Valley, and Pyramid Lake Reservations

Even if Native voters have the resources to make it to the polls, they may be reluctant to go to the towns with on-site voting. In many states, Native American populations must enter

predominantly white county seats to register or vote (Massey 2015a; McCool, Olson, and Robinson 2007; McDonald 2010). Long standing mistrust between Native American communities and non-Native populations in reservation border towns is well documented (U. S. Commission on Civil Rights, 2011). Voter intimidation efforts against Native Americans often go unnoticed because the populations are small and geographically distant from political and media centers (Schroedel and Hart 2015). In another Nevada study, Gimpel, Dyck, and Shaw (2006) found that distance was a major factor in voting decisions in Clark County, which includes the urban core of Las Vegas, but also large, sparsely populated areas that are primarily desert. They found that non-voting increases with distances up to ten miles, but some voters switch to voting by mail under these circumstances. This only works if there is residential mail delivery, which does not exist on these reservations—and many other places in Indian Country.

Perceived Benefits of Voting

There are many factors that can impact the perceived benefit of voting. A low sense of political efficacy and lack of trust that your vote will be properly counted is certain to be among influences that negatively impact this calculus. With a few exceptions, low trust in Native populations has often been assumed but rarely studied (Evans-Campbell 2008). In 2016, researchers working with the Native American Voting Rights Coalition (NAVRC), Tribal leaders, and the Inter-Tribal Council of Nevada, surveyed more than 1,500 Native Americans living on reservations in Nevada and South Dakota about voting access. The survey respondents evinced low levels of trust in local government's administration of elections (Native American Voting Rights Coalition 2018). Subsequent research, using NAVRC survey data, showed that

lack of trust in election administration predicts a significantly lower probability of voter turnout (Berg et al. 2018).³

A Natural Experiment in Early, On-Site Voting on Indian Reservations

Natural experiments are valued in the social sciences because they mimic the conditions of laboratory experiments that offer a stronger basis for causal claims linking the independent to dependent variables (Campbell 1969). In contrast, most research in the social sciences, including on the topic of voter participation, is observational. We typically cannot identify whether the intervention to increase voting was non-random—if it was in fact adopted because of increased demand for voting (which would overstate the effect of the intervention) or to bolster areas of particularly low participation (which may understate the effect of the intervention). In the case of natural experiments, however, researchers can claim that the treatment and control groups were assigned "as if random" with respect to important explanatory characteristics (Dunning 2008).

The conditions for a natural experiment require: 1) "the response of experimental subjects to a 'treatment'...is compared to the response of other subjects to a 'control' regime, often described as the absence of a treatment"; and 2) assignment into treatment and control groups is random with respect to the expected outcomes or the treatment conditions (Dunning 2008, 282).

³ Less than half of Nevada respondents to the NAVRC survey stated they had complete trust in any form of nontribally administered election (NAVRC 2018). This contrasts with responses among the general population in Nevada to the 2016 Survey of the Performance of American Elections (SPAE), which found that roughly three-quarters of respondents had complete confidence that their vote would count. For data and full report on 2016 SPAE survey see: Charles Stewart "2016 Survey of the Performance of American Elections." https://doi.org/10.7910/DVN/Y38VIQ

Treatment and Control Groups

For a valid natural experiment, the "treatment" and "control" groups must be comparable on the variables relevant to the experiment outcome. None of the reservations have residential mail delivery, which makes it unlikely that residents can avoid the travel distance barrier by switching to vote by mail. While no real-world settings are identical, we demonstrate in this section that the four reservations we study are similar with regard to the costs and benefits of voting, and thus their likely participation rates.

The four reservations have very similar socio-economic characteristics. As discussed above, 23-31% of individuals on these reservations live below the poverty line. Regarding comparability, the poverty rates in fact work against our hypothesis. Pyramid Lake (25%) and Walker River (31%) have higher rates of poverty than the control reservations (Duck Valley and Yerington-23%) (U.S. Census Bureau 2018). Educational attainment is also similar across the groups. In Mineral, Churchill, and Lyon County, wherein the Walker River Reservation lies, the average high school graduation percentage (not including those earning GEDs), for Native Americans is 31.2%. In Washoe County, home to Pyramid Lake Reservation, it is 29.9%. In Elko County, it is 38.8%. The percentage in Lyon County, home to Yerington, is 32.6%. As a point of comparison, according to the Nevada Department of Education, the average high school graduation rate in all of Nevada is around 75%. Since, as Rosenstone and Hansen (1993) have noted, socio-economic status leads to lower voting rates, we should in fact expect lower participation in Pyramid Lake and Walker River on average.

On all of the reservations, aside from Yerington, the travel distance may be considered prohibitive. Prior to the "treatment" Walker River and Pyramid Lake voters had to travel 34 and 48 miles one way, respectively, to reach an early voting site. For Duck Valley residents, the

travel distance was 100 miles each way, while Yerington residents had a comparatively short trip of about 9 miles each way. Residents need to have access to a vehicle, gas money, and the time to travel for the purpose of a vote. Moreover, they often must enter towns where there is a history of animosity with local residents.

Culturally, the reservations are quite similar. Northern Paiutes live on three of the reservations, while Duck Valley Reservation includes Western Shoshones and Northern Paiutes. The Northern Paiutes in Nevada are the descendants of people who lived in that territory for millennia - in some accounts for as long as 9,000 years. The Western Shoshone, who make up part of the people living at the Duck Valley Reservation, are the descendants of indigenous peoples who lived in Idaho and Oregon as well as northern Nevada. Both groups have lived together and inter-married on the Duck Valley Reservation for nearly 140 years (Sho-Pai Tribes 2018). Culturally both groups still are quite similar, sharing a deep connection to the land and ties to the environment (Anonymous 2015).

"As if" Random Assignment

The key feature of a natural experiment is an exogenous source of variation in treatment, and comparable groups among the treated and untreated groups. We argue that the selection of reservations into the early, on-site voting "treatment" created by the injunction was exogenous with respect to features associated with voting participation. In this case, all four reservations were interested in early satellite voting sites, but only two received them.

In August 2016, Native Americans living on the Pyramid Lake Reservation in Washoe

County and those living on the Walker River Reservation in Mineral County asked county

officials and the state to establish early voting satellites on their reservations. After being turned
down, tribal members sought a preliminary injunction to force the counties to provide them with

satellite centers equivalent to those provided in other parts of the state. The Walker River and Pyramid Lake Reservations received an emergency injunction requiring that the state establish early voting sites for the November 2016 election (*Sanchez v. Cegavske*, 2016). The ruling, however, did not require that the sites provide registration along with early voting.

Individuals at the two other reservations took steps to join the lawsuit but, for reasons exogenous to political participation, could not be included. Yerington tribal leaders initially intended to join the lawsuit, but after consulting with attorneys agreed to not be part of the suit because they faced a substantially lower travel distance barrier than people living at Pyramid Lake and Walker River. Since the lawyers were hoping to get a judicial ruling that travel distance disparities are a relevant factor in determining voting rights abridgement, it made sense for Yerington to withdraw (Healy 2019b). Residents at Duck Valley Reservation discussed joining but chose not to engage in the litigation due to concerns their participation may cause problems because the reservation includes parts of Idaho.⁴

As result of this ruling, satellite centers for early voting were established on the Pyramid Lake and Walker River Reservations. However, the state refused a request by the Inter-Tribal Council of Nevada to establish satellite early voting centers on the other reservations within the state. The similar conditions for the reservations experiencing the application of the "treatment" (the placing of an early voting site on the reservation) and those not receiving an early voting site creates a strong case for analyzing these cases as a natural experiment in early voting (Campbell 1969). Also, the four reservations were similar in that neither the Republican nor Democratic campaigns organized GOTV efforts in their communities (Healy 2019a).

⁴ According to conversations with Duck Valley Reservation residents, they have an agreement that allows both those living in Idaho and those in Nevada to register their vehicles in Idaho, which has nearer Department of Motor Vehicles offices and has lower registration fees. Several expressed fears that Nevada officials would retaliate against them by taking away their Idaho car registration, if they pushed for a voting site on the reservation.

Voting Conditions in Nevada

Nevada allows citizens to register online at the Secretary of State's official website, via mail, or in-person at various government offices (local election, department of motor vehicles and public assistance offices). Online registration requires a person to have a number from either a valid driver license or DMV-issued identification card. While registration is relatively simple, particularly if one has access to the internet and the required identification, some people on reservations lack both internet access and the required identification. The NAVRC survey showed that people in Native communities faced a range of logistic and administrative challenges in trying to register and vote with travel distance being the greatest. The state has not exhausted its available tools to reduce voting costs on reservations. For example, Nevada voting law (NRS 293.5237) allows counties to send field registrars to individuals' homes to register them if they are ill, disabled or "for other good cause." This is only available when there are "volunteer registrars." NAVRC surveyors were not able to find any evidence that volunteer registrars have ever been made available to travel to reservations.

In the lead-up to the 2016 election, Nevada opened large numbers of satellites for registration and voting. Prior to the emergency injunction, however, there were none on the reservations. Many of the satellites were established in places where voters already had access to different forms of voting, including in affluent Incline Village on the north shore of Lake Tahoe.

Results of the Natural Experiment

Our expectations were that early, on-site voting access should increase participation on the treated reservations. The mechanisms we expect to drive up turnout are reducing the costs of

⁵ The median income of Incline Village in the period 2007-2011 was \$93,831 (American Communities Survey).

voting by making it available throughout the general election early voting period, drastic reductions in the travel distance, and increasing voter trust by placing voting sites on their home reservations. These factors are intertwined, and we have no direct way to separately measure these mechanisms in the 2016 general election.

As part of the natural experiment, we examined both longitudinal and cross-sectional data. While we expect to see greater increases in voting on both the Pyramid Lake and Walker River Reservations that received early voting sites, in comparison to previous years and the other two reservations without satellite sites, we also expect to find a larger increase at Pyramid Lake, given its residents had never had any access to voting on the reservation prior to the establishment of the satellite voting site. We also examine voter participation in the primary elections on 2016, which were held prior to the injunction, and thus reveal anticipated interest in voting in the general election in 2016.

Data Description

Our dataset includes aggregate vote totals for primary and general elections between 2004 and 2016. The four reservations are located in four counties: Lyon, Mineral, Washoe, and Elko.⁶ For each of the reservations, we include data only from national level elections held every two years (including presidential and Congressional elections, primary, and midterm elections).

Providing comprehensive reservation data of similar composition for each participant was challenging. For example, although Yerington Reservation stretches across three precincts in Lyon County, these precincts (#4 through #6) are not exclusively reservation territory. As such, those data were dissected to distinguish between reservation versus non-reservation voting data by pulling only from the seven identifiable streets that make up the reservation: Nobe St., Wye

⁶ As noted earlier, part of the Duck Valley Reservation is in Idaho, although most of the population lives in Nevada.

St., Toza St., Taboosi Way, Paiute Dr., Pinenut Dr., and a section of Route 101. Duck Valley Reservation is centered in one precinct (#29) within Elko County. Walker River Reservation falls within precinct 11 of Mineral County. These data may include votes from non-reservation residents but given that Mineral County is rural, we do not expect that vote totals were significantly altered by non-reservation residents within precinct 11.

The voting data in all cases was provided online by the Office of the Secretary of State of Nevada. This online data bank gives the vote totals for each candidate from a given precinct for a specified race without distinguishing between early voting, absentee voting, and in-person Election Day voting. Importantly, the vote tabulation conditions and procedures did not change across the years (2006-2016) or election types (primary, general, midterm, presidential) in our sample. Thus, we have no reason to expect the imprecision in vote totals would bolster the results we observe. In fact, data error should work against our expectations if early, on-site voting access aided only those individuals living on reservation and vote totals were unchanged in the surrounding, non-reservation population. Non-reservation votes would thus "dilute" the impact of the early, on-site intervention.

The population data to estimate per capita voter turnout at the reservations faces similar constraints. The reservations under examination are counted as part of the decennial Census but estimates between Census years are not available. We have projected them based on known data. The standard in the voting literature is to use voting age population as the denominator. Voting age population is not calculated for these reservations nor is it possible to calculate this variable from available sources. Even if it were possible, much of the young voting age population on reservations live in temporary housing arrangements, making them difficult to

Yerington population estimates include the Yerington Reservation and Campbell Ranch. Duck Valley estimates are available from Census block 9401 in Nevada.

count authoritatively. Despite these challenges, the data upon which the analysis is made represents the best attempt ever to isolate Native American reservation voting data in Nevada from the larger county and state data pools.

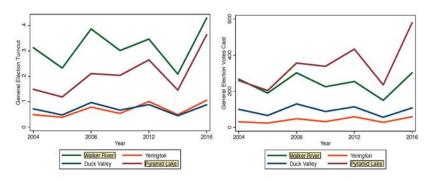
Efforts to further test the impact of turnout on these reservations with future elections will not be possible due to a legal change brought about by Nevada Assembly Bill 137. This law eliminates the requirement for tribal governments to obtain prior approval by city or county officials to establish polling sites on reservation lands. The law also stipulates that county officials and city clerks will be required to recognize established polling places on reservations. The reservations in Nevada plan to establish polling places on each reservation beginning with the 2020 election and the reservations will no longer have differential access to polling locations. Thus, despite the small sample size and data limitations, our study frame represents the only opportunity to estimate the impact of the "natural experiment" conditions.

Data Analysis

We approach the data analysis in three straightforward ways to examine the effect of early voting sites on voter turnout in the four reservations under study. First, we examine the data on voter turnout (voters per capita) and vote counts (total number of votes) visually in graphs. Second, we perform t-tests of the differences in means between reservations with on-site early voting access and those without. Third, we run multivariate fixed effects regressions that control for reservation-specific and election-specific factors to see the impact of early voting access on voter turnout. We estimate results with both voter turnout and vote count for robustness and to reduce concerns about the quality of the population data. Throughout these analyses we compare the impact of early voting sites in the general election to turnout in primary elections without early voting access to be sure that the chosen reservations were not simply more inclined to vote

at increased levels in the 2016 election, keeping in mind that none of the sites experienced mobilization by campaigns during 2016.

Figure 2: Voter Turnout and Vote Count in Four Nevada Indian Reservations, 2004-2016



Notes: Reservations with early voting sites are shaded in the legend. Full data shown in Appendix Table A1.

In Figure 2 we plot voter turnout in the four reservations over time, with the reservations with early voting sites shaded in the legend. Figure 2 provides visual confirmation of a marked increase in the voting on the two reservations with early voting sites, Walker River and Pyramid Lake. Moreover, as expected the sharpest increase appears to be on Pyramid Lake. This was the first time in history that Pyramid Lake had access to voting on the reservation. Walker River saw a 19% increase in per capita voter turnout and a 16% gain in votes cast between the 2012 and 2016 presidential elections. Pyramid Lake saw a rise of over 27% in per capita turnout and 25% in votes cast during the same period. Across the full time period, turnout from the Walker River during presidential election years has fluctuated, ranging from a low of 254 votes cast in 2012 to

a high of 302 in both 2008 and 2016.⁸ In contrast, Pyramid Lake has seen a steady increase in voter turnout since 2004 (from 259 to 579 in 2016), although the jump between 2012 and 2016 is substantially larger than in any of the previous periods. Turnout on the other two reservations (4-11% for Yerington and 5-10% for Duck Valley) remained low and flat throughout the entire period studied.

As expected, turnout in midterm elections is much lower than in the general election years. Accordingly, we conduct statistical tests on presidential election years alone and all elections pooled together. Perhaps the most interesting point is that the 2014 off-year turnout on the reservations was notably lower than in all other off-years with one exception (Yerington was slightly lower in 2006 than in 2014). If the low turnout in 2014 was an indication of disaffection and distrust, as was found in the NAVRC survey research, the increases in turnout in the 2016 general election at Walker River and Pyramid Lake are surprising—perhaps providing evidence that on-site early voting center increased participation.

Figure 3 shows the trends in turnout during primary elections. Of course, primary elections are not directly comparable to general elections. We examine the primary election to assess the conditions of the "natural experiment." That is, whether we see differences prior to the "treatment" across the reservations. Generally speaking, we see very little indication of enhanced interested in primary voting over time in the reservations under examination. Three out of four reservations had falling or flat participation in primary elections in the period 2006-2016. In fact, Walker River, which saw a 16% increase in voting in the 2016 general election had a major dip in participation in the 2016 primary elections. The exception to this pattern is Pyramid Lake,

⁸ The lowest per capita voter turnout was 31% in 2004. The highest per capita turnout was in 2016 at 43%. The population in Walker River decreased between 2008 and 2016, rendering a 302 vote total a higher per capita value.

which has saw a spike in participation in the 2016 primary. We take the declining participation in primary elections, including falling participation in one of the treated reservations, Walker River, to be further evidence of the voter disengagement evident in the NAVRC surveys. Moreover, the primaries act as a baseline estimate for anticipated participation in the 2016 election. We do not see rising engagement in Walker River. This lends credence to our assertion that the early voting sites were not requested in response to rising interest in political participation in the treated reservations.

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Figure 3: Primary Election Turnout and Vote Count, 2006-2016

Notes: Reservations with early voting sites are shaded in the legend. Full data shown in Appendix Table A1.

T-Test Results

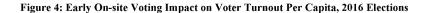
We examine the statistical significance of the effect of early voting sites with the simplest hypothesis test, the difference in means test, or t test. Most investigations of political phenomena do not meet the criteria of a natural experiment in which the treatment and control groups are selected as if by random chance. Accordingly, most political analysis requires rather complex multivariate regression analysis that attempts to limit threats to validity and account for non-random sorting of treatment and control groups. With natural experiments, on the other hand, the

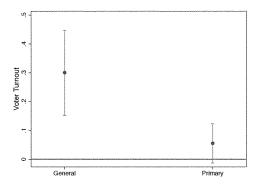
t test is a reasonable starting point because the selection mechanism is thought to be exogenous and the groups comparable.

We begin by plotting results for the 2016 presidential election. In this very limited sample (four cases over two elections in one year), we show the difference in voter turnout in the "treated" in comparison to the "control" reservations. The results of our t tests show approximately 30% higher turnout in the reservations with early, on-site access in comparison to the reservations without this access. On the right side of Figure 3, we show the difference in primary voting in 2016 for the sites that received early voting access and those that did not. Recall that the early voting sites were only available for the general election. Thus, we should not see an impact of early voting sites in the primary election. This is precisely what we see in Figure 4, with changes in primary turnout in early voting sites statistically indistinguishable from those that would not receive voting sites in the 2016 general election.

These estimates accord with on the ground estimates of the effect of early voting. For example, as of August 14, 2017 the *Indian Country Today* website carried a story from October 27th, 2016 stating that "Pyramid Lake voters joined a flood of Nevadans casting a ballot during the state's early-voting period. During the first two days of early voting at Pyramid Lake, turnout had already doubled that of the last presidential election in 2012."

⁹ Results for vote totals show highly consistent results, shown in Appendix Figure A1.



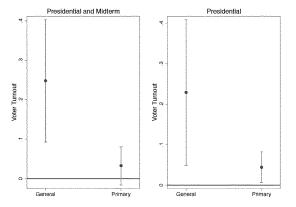


In Figure 5, below, we plot the results of difference in means tests for voter turnout in all general and primary elections. The plot shows the estimated difference in voter turnout per capita in sites with early voting (Walker River and Pyramid Lake in 2016) and those without voting sites (Yerington and Duck Valley in 2016, and all other years for all reservations). The estimates for the general election suggest an increase of approximately 22-25% in reservations with early voting sites versus those without such sites. This result is significant at the p<.01 level. We include estimates of all election years (presidential and midterm) and presidential years in the estimates because of widely observed differences in turnout in midterm and presidential elections. We find similar results in both cases. We do not see any higher propensity to vote in the primary elections in the treated reservations, except to a slight degree in presidential elections. This effect is driven by increased turnout at Pyramid Lake in the 2016 primaries.

Again, we present results of the primary elections only to demonstrate the comparability of the

reservations prior to the early onsite voting "treatment." We show our main results are not driven exclusively by Pyramid Lake in Online Appendix Table A3.10

Figure 5: Early On-site Voting Impact on Voter Turnout Per Capita, All Elections



The results from the t tests provide supportive evidence that early voting sites increased turnout in the treated reservations. Yet the inference of the t tests relies on strict assumptions of the comparability of the reservations. While we have asserted that the reservations have similar cultural and socio-demographic characteristics that render them reasonably comparable, there are certain differences in the population size, socio-demographic characteristics, and the geographic distance to voting locations that may impact our statistical significance and point estimates. In the next section, we address these concerns with fixed effects estimations that control for time-invariant differences across the reservations that may impact our results. We also control for election year fixed effects to address concerns that our results may be driven by election-year

¹⁰ We also show the results shown in Figure 4 are not driven by the relatively short travel distance to the polls from the Yerington Reservation. Results without Yerington are show in Online Appendix Figure A2 and Table A4.

specific factors. The results of the fixed effects regression provide more conservative estimates of the effect of early voting but give us more confidence in the robustness of our findings.

Fixed Effects Regression Results

In Table 1 we estimate fixed effect models of early voting sites on turnout per capita. In all models we control for reservation fixed effects to manage concerns with unexplained variance between reservations such as historical factors, geographic distance to polling places, and cultural differences. Year fixed effects control for election specific factors. We estimate the models for presidential election years (models 1 and 2) and all elections years (models 3 and 4). We also control for reservation population. Additional time varying controls are not available at the reservation level. Nonetheless, the fixed effects, in addition to the lagged dependent variable included in models 2 and 4 account for much of the variation in turnout. Throughout all models, the effect of an early voting site is highly significant and associated with higher voter turnout. The fixed estimates for per capita turnout suggest early voting sites increased voting by 8-13%.

We show additional analyses in the Online Appendix. First, we test the fixed effects models with the vote count dependent variable in Appendix Table A2. The results in all cases are positive and significant at the p<.05 level or higher. We also test the results without Pyramid Lake and without Yerington to be sure that the higher turnout is not driven by these reservations alone. Despite the smaller sample, we find a consistent positive effect of the early voting site on turnout and the vote count in Appendix Table A3 (Pyramid Lake) and Table A4 (Yerington). We also test whether having early on-site voting in the general election was related to greater turnout in the primary election. The results are shown in Appendix Table A5. We find that early on-site voting access in the general election is not a consistently significant predictor of voter turnout in

primaries on the reservations. Again, these results suggest that the sites that received early onsite voting locations were not more likely to vote overall, based on primary election behavior. These results support the visual evidence from the graphs, and provide more conservative estimates than those from the t tests.

Table 1: General Election Results

	(1) Turnout	(2) Turnout	(3) Turnout	(4) Turnout
Early Voting Site	0.106***	0.082**	0.127***	0.121***
	(0.030)	(0.017)	(0.029)	(0.037)
Population (logged)	0.693	2.089**	0.626*	0.606
	(0.405)	(0.555)	(0.348)	(0.614)
Turnout (t-1)		0.141		-0.051
		(0.234)		(0.316)
Observations	16	12	28	24
R-squared	0.983	0.997	0.971	0.969
Reservation FE	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes
Controls	Yes	Yes	Yes	Yes
Elections	Presidential	Presidential	All	All

Standard errors in parenthesis. *** p<0.01, ** p<0.05, * p<0.1

Discussion and Policy Implications

Our empirical analysis shows a consistent, positive impact of early on-site voting locations on voter turnout in the two "treatment" reservations in comparison to the "control" reservations in the study. This positive impact is apparent in voter turnout and vote totals, in difference in means tests, and fixed effects regressions. We have reason to believe that the placement of early voting sites in Walker River and Pyramid Lake were largely exogenous of latent variation in voter interest across the four reservations and that the four reservations are broadly comparable with regard to the factors that predict voting. These results provide

interesting insights into the impact of early on-site voting and of political participation on Indian reservations more broadly. Of course, the sample size of this investigation is limited, but the natural experimental conditions enhance the validity of the research.

We provide simple causal mechanisms that we expect drive differences in participation costs of voting and trust in government. Both factors were improved by having early voting sites on the reservations. The sites substantially reduced transportation costs for interested voters and provided a longer time window to complete the complex task of modern voting. Moreover, these sites were on the reservations, where Native people were available to assist with the task of voting. 11 The physical location of the voting site on reservations increased confidence that votes would be counted, and the presence of Native volunteers encouraged some skeptical or reticent voters to cast ballots. We cannot definitively state, however, which of these mechanisms was more important to voters, nor whether they would increase voter turnout in the long-term, but we think their combined positive effects are likely to endure because voting is a habituated behavior. As Nickerson (2008) noted, "The entire act of voting appears to be assisted by interactions with friends, neighbors, and family members." Previous research has shown that social networks and the context within which people vote can have a positive or negative impact on participation (Huckfeldt 1979; McClurg 2003), and the entire context of voting at Pyramid Lake and Walker River was changed into a positive one. 12 Uncovering these details remains the top priority for future research on this topic.

¹¹ There is a substantial body of research showing that trust and electoral participation increases among African American and Hispanic voters when there are poll workers of the same race at polling locations (King and Barnes 2019) and given the history of discrimination against Native voters, we expect there is a similar dynamic among Native Americans.

¹² White's (2019) study of friends and family members of people, who have interacted with the criminal justice system, provides additional evidence of how voting or in her research, not voting, is affected by context. Given the deleterious effects of felony disenfranchisement laws on minority populations, the creation of mechanisms that facilitate making electoral participation a positive, community experience are of importance to not only Native Americans, but more broadly of interest to scholars within the race and ethnic politics sub-field.

To some extent the increases on the two reservations subject to the treatment was surprising. Existing research suggests limited impact of early voting sites on turnout, but the failure to find an increase has been attributed to decreases in party and candidate mobilization when early voting is instituted. The NAVRC survey results also show that trust in all levels of government and trust in different forms of voting is low, although trust in in-person voting is substantially higher than the other forms. The provision of satellite voting options—a form of in-person voting—on the reservation furthers the common American goal of open access to the ballot and democratic participation for all citizens.

While this study is an important first step in analyzing differences in electoral participation on reservations, there is much left to be accomplished. The next step of this project is to work closely with Nevada to disaggregate the voter turnout data so that early voting at satellites can be separated from Election Day voting. At this point, we know the early on-site voting was associated with higher turnout, but we would like to investigate whether the timing, location, or both, were more important to the increased turnout. We also would like to explore the extent to which there is a contagion effect, meaning community members who have voted encourage friends and family to do the same. More generally, we believe it is crucial to identify the underlying reasons - most likely related to economic factors, lack of trust, and high levels of political alienation - that contribute to low levels of political engagement found on many Indian reservations.

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How Polling Place Changes Reduce Turnout: Evidence from Administrative Data in North Carolina*

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August 14, 2019

Abstract

How do changes to voting procedures affect participation in elections? Looking within the state of North Carolina, I estimate the causal effect of Election Day polling place changes on voter participation using detailed voter file information on nearly 4 million individual voters linked with a panel of polling place locations. Implementing a series of difference-in-differences designs, I find that changing a voter's polling place location causes a 1 to 2 percentage point decline in general election turnout likelihood. The majority of the turnout decline can be attributed to the search costs associated with finding one's new polling place location rather than the distance costs of traveling to the polling place on Election Day. This, along with a series of mechanism tests, suggests that providing information to voters is important to help mitigate the voting costs associated with election changes.

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"Voters were confused because of changes to their polling places and a lack of accurate information provided to them by their state officials."

- Sherrilyn Ifill, NAACP Legal Defense and Educational Fund¹

1 Introduction

How do changes to voting procedures affect political participation? A long literature models the voter's turnout decision as a function of the benefits and costs incurred by the voter (Downs 1957; Riker and Ordeshook 1968). When the cost of voting becomes sufficiently high, rational voters choose not to turn out to vote. Even if the act of participating includes benefits apart from influencing the outcome of the election – such as a commitment civic duty, or some other expressive benefit – imposing high costs on voters could still be enough to prevent them from turning out to vote.² Another strand of literature documents large inequalities in political participation in the United States by race, wealth, age, and other factors (Avery and Peffley 2005; Leighley and Nagler 2007, 2013; Verba, Schlozman, and Brady 1995; Wolfinger and Rosenstone 1980). Marrying these two literatures, a plethora of empirical research relates changes in voting costs to voter turnout (Alvarez, Levin, and Sinclair 2012; Berinsky 2005; Burden et al. 2014; Fitzgerald 2005; Fowler 2017; Gronke, Galanes-Rosenbaum, and Miller 2007; Gimpel and Schuknecht 2003; Hajnal, Lajevardi, and Nielson 2017; Haspel and Knotts 2005; Holbein and Hillygus 2016; Oliver 1996).

While the effects voting changes on turnout have generated a lot of public interest in recent American elections,³ credibly estimating their causal impact has proven difficult for several reasons. Many voting reforms are *state*-level policy changes, making it challenging

http://www.latimes.com/politics/la-na-pol-election-voting-20161108-story.html

²See, for example: Aldrich (1993); Blais (2000); Feddersen (2004); Feddersen and Pesendorfer (1999); Feddersen and Sandroni (2006); Green and Shapiro (1996); Niemi (1976); Riker and Ordeshook (1973); Sanders (1980); Verba, Schlozman, and Brady (1995).

³Changes to voting rules have become politically contentious in recent elections. Democrats and Republicans are engaged in "voting wars" over registration rules, early voting opportunities, voter identification laws, and the movement or conslidation of polling places (Hasen 2012). While Republicans argue that these changes help prevent voter fraud, Democrats decry these measures, labeling them as voter suppression tactics that decrease turnout among minority voters, who tend to vote for Democratic candidates.

to estimate causal effects. Therefore, much of the literature on early voting and turnout, for example, reports correlations between between the availability of early voting options and turnout (Gronke, Galanes-Rosenbaum, and Miller 2007; Burden et al. 2014; Giammo and Brox 2010; Wolfinger, Highton, and Mullin 2005), often using individual-level survey data from the Current Population Survey (CPS) or Cooperative Congressional Election Study (CCES), or using aggregate-level turnout in states with and without early voting options.⁴ Another set of papers uses a difference-in-differences approach to estimate the effects of election reforms on turnout, comparing differences in aggregate turnout in states that did and did not adopt various types of election reforms (Burden et al. 2014; Vercellotti and Anderson 2006; De Alth 2009; Alvarez, Bailey, and Katz 2008; Mycoff, Wagner, and Wilson 2009; Dropp 2013). Given the small effective sample size that comes with a state-level difference-in-differences approach, however, these studies are systematically underpowered and cannot estimate effects with the precision required to be policy-relevant (Erikson and Minnite 2009).⁵

To gain some traction on how election reforms affect political participation, in this paper I answer the following question: how do polling place changes affect political participation? Using a series of difference-in-differences along with individual-level administrative voter file data from North Carolina in 2008-2016, I show that Election Day polling place changes cause between a 1 and 2 percentage point decrease in voters' turnout likelihood in general

⁴Much of the literature on the introduction of no-excuse absentee voting (e.g., Oliver 1996; Francia and Herrnson 2004; Larocca and Klemanski 2011) and voter ID laws (e.g., Alvarez, Bailey, and Katz 2008; Hajnal, Lajevardi, and Nielson 2017; Mycoff, Wagner, and Wilson 2009; Vercellotti and Anderson 2006) uses the same approach. In addition to the challenges of estimating these types of effects using national surveys, this cross-sectional approach suffers from problems of omitted variable bias arising from the endogeneity of election reforms, so we should be hesitant to interpret the findings from these studies as causal (Grimmer et al. 2018). For example, states adopting more permissive voting laws often have higher levels of turnout prior to reform (Hanmer 2009), which would – to the extent that researchers omit control variables associated both with turnout and the decision to adopt election reforms – bias the estimates reported in these studies in favor of finding demobilizing effects of restrictive voting changes.

⁵Many state-level election reforms are also "bundled," where a collection of election reforms are adopted simultaneously, making it difficult to parse out the effect of any one particular statewide policy change (Leighley and Nagler 2013). For example, North Carolina passed a law in 2013 that instituted many changes – including restricting the number of early voting days for statewide elections, ending pre-registration, and requiring photo identification to vote. (http://www.ncga.state.nc.us/Sessions/2013/Bills/House/PDF/H589v8.pdf).

elections, on average. By zooming in on this particular reform, which varies within a state, I can rule out concerns that the effects are driven by statewide election reforms, like the implementation of same-day voter registration for early voting in 2007, or a strict photo voter ID law implemented in the 2016 primary election.

I also estimate the effect of polling place changes not just on the turnout decision, but also on which voting method voters use. I find that polling place changes cause a decrease in the likelihood of voting at one's polling place on Election Day, partially offset by an increase in the likelihood of voting using convenience voting methods.⁶ This vote method substitution is concentrated among older voters and homeowners, suggesting that, as voters face changes to Election Day voting, a robust set of convenience voting methods can help to mitigate the decrease in turnout likelihood among these types of voters.

With fine-grained, individual-level administrative data on voter addresses linked to their polling place addresses, I can separate out the "search" versus "distance" costs of polling place changes – that is, the cost of acquiring information about the location of one's new polling place versus the cost of traveling to the polling place on Election Day. Geocoding each voter's registration address and their corresponding polling place to define a voter's distance from her polling place, I find that search costs drive much of the decrease in turnout, at least in North Carolina.

I also do not find evidence that polling place changes cause larger turnout decreases among Democratic or Black registrants, or that polling place changes decrease precinct-level Democratic vote share. Some suggestive evidence illustrates one potential reason for this finding – the North Carolina Democratic Party increased its spending in areas with more polling place changes, while the North Carolina Republican Party did not. I also find that polling place changes cause substitution toward convenience voting among older

⁶I define convenience voting as voting on a day other than Election Day. In North Carolina, the most common forms of convenience voting are no-excuse absentee by mail and early in-person voting.

⁷See Brady and McNulty (2011) and Amos, Smith, and Claire (2017).

⁸Following the discussion in Brady and McNulty (2011), Haspel and Knotts (2005), and McNulty, Dowling, and Ariotti (2009), I use straight-line distance calculations rather than network distance.

voters and homeowners. These heterogeneous effects, along with the findings that the effects are concentrated in the search cost component and parties strategically mobilize voters in response to polling place changes, suggest that *information* is critical to explain how polling place changes affect elections. To further test this information mechanism, I leverage the fact that in Wake County, North Carolina the County Board of Elections sent informational mailers to voters when the name (but not location) of their polling place had changed. I find that voters in precincts receiving these extra informational mailers were more likely to vote at their polling place, but not more likely to using convenience methods. Taken together, the evidence suggests that providing voters with additional information about their polling place can reduce voting costs and have a mobilizing effect.

This paper is related to a series of studies on polling place changes (e.g., Haspel and Knotts 2005; Brady and McNulty 2011), most notably Clinton et al. (N.d.), which examines the effect of polling place changes among North Carolina voters in presidential elections in 2012 and 2016. This presents an exciting and somewhat unique opportunity to consider evidence across two different studies and aggregate them together to learn more about how polling place changes affect voter turnout. Clinton et al. (N.d.) finds that polling place changes reduce Election Day voting, but cause a nearly offsetting substitution toward early voting. Using a similar difference-in-differences design, I come to a slightly different finding from Clinton et al. (N.d.): I find that polling place changes cause a decline in overall turnout of 1 to 2 percentage points, on average. I summarize the key differences below, and provide

⁹Brady and McNulty (2011) examines the relationship between turnout and precinct consolidation between the 2002 and 2003 elections in Los Angeles County, finding that polling place changes reduced turnout by at least 1.4 percentage points. Building on the findings in Brady and McNulty (2011), I extend our understanding of how polling place changes impact turnout in three important ways. First, while Brady and McNulty (2011) relates polling place changes and turnout in Los Angeles County, I expand the analysis to include both urban and rural counties in North Carolina. Second, I estimate the effects of polling place changes generally rather than in a context of precinct consolidation. There is often public outcry over the possible political ramifications of precinct consolidation, so there is likely a lot of information being provided to voters in these types of settings (for example, see https://www.nytimes.com/2014/07/08/us/08northcarolina.html or http://www.chicagotribune.com/suburbs/post-tribune/news/ct-ptb-lake-precinct-plan-st-0208-20170207-story.html). Much less is known, however, about the more common general churn from election to election of polling place location changes, which could arise for less nefarious reasons but nonetheless might have important effects on turnout. Third, I estimate how the effects of polling place changes vary along voter characteristics like age, race, and homeownership status.

a full replication of the main Clinton et al. (N.d.) result in A.1 of the Appendix. One key difference between the studies is that, in order to gain more resolution in the timing of the treatment, I collect data on polling place locations in primary and general elections for midterm and presidential election years, i.e., every primary and general election from 2006 through 2016. This additional data also allows me to estimate the effects of polling place changes on turnout in midterm elections and in primaries, and the longer panel also allows for robust testing of the parallel trends assumption. One drawback of this approach is that polling place lists from North Carolina county boards of elections are available for 35 of North Carolina's 100 counties. While this does not affect the internal validity of the estimates, it might raise concerns over how the results might generalize to the entire state. In the Appendix, I provide some evidence that these 35 counties are slightly more populous than the average county in North Carolina, but otherwise they are quite similar on other observable demographic characteristics.

2 Voting and Polling Place Changes in North Carolina

Why do polling places change? To understand when and where polling place changes occur, in Figure 1 I show a series of boxplots with the proportion of voters in each county that experience polling place changes before each election. There are several county-years with no polling place changes, but for many elections at least half of counties have a non-negligible amount of voters affected by polling place changes. The changes occur in both urban and rural counties: in the two most populous North Carolina counties, Mecklenburg and Wake —

¹⁰Second, I use a slightly different method than Clinton et al. (N.d.) to compute an individual's distance from their polling place. I geocode each voter's residential address and compute the straight line distance to their polling place address, while Clinton et al. (N.d.) compute driving travel time from the precint's geographic centroid to the precint's polling place location. I also show my results are similar when computing the Manhattan distance, which I describe in more detail in the Appendix. I prefer my distance metric because the individual-level measure allows me to identify which voters are closer or farther from their new polling place. An aggregated measure of polling place distance is especially sensitive to measurement error for voters who are not near the centroid of their precinct, which likely explains why the substitution effect toward convenience voting that Clinton et al. (N.d.) find is smaller in magnitude than in my results. For a more detailed discussion considering the two studies, see Section A.1 of the Appendix.

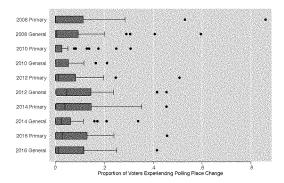


Figure 1 – Proportion of Voters Experiencing Polling Place Changes, by County

This figure shows the a series of boxplots with the proportion of voters in each county experience a polling place change before each election. In every election starting in 2012, more than half of counties had at least one polling place change before the election. In one extreme case, more than 80% of voters experienced a polling place change before the 2008 primary election in Lee County, North Carolina, which underwent re-precincinting and changed the location of 8 of its 10 polling places.

home to Charlotte and Raleigh, respectively — there are polling places before every primary and general election, with the number of affected voters ranging from 2 to 12%. Polling place changes affect a large proportion of voters in some small counties. For example, more than 80% of voters experienced a polling place change before the 2008 primary election in Lee County, North Carolina, which underwent re-precincinting and changed the location of 8 of its 10 polling places. Overall, polling place changes occur regularly throughout the period I study, and they happen regularly in both urban and rural counties.

The reasons cited for polling place changes are often mundane and idiosyncratic. Through correspondence with County Boards of Elections in North Carolina, some of the reasons for polling place changes have included parking availability, change of ownership or use of a factility that could no longer accommodate voting, or construction, renovation, or other damage to facilities. Polling place changes due to construction or renovation are sometimes temporary. In some cases, staff at County Board of Elections offices have indicated that concerns about safety in schools have prompted polling place changes from schools to other facilities, like churches or community centers. Lastly, staff at some county boards indicated that precinct population growth or decline often prompts polling place changes. Given these cited reasons, along with the fact that polling place changes occur in all types of counties and in each election, it's not likely that polling places are being moved for nefarious reasons, at least for most polling place changes. Later, I show evidence that there is not widespread polling place consolidation in North Carolina generally (Figure 3), or consolidation on a partisan basis (Figure A.5). I do not, however, claim that polling place changes occur at random. Correspondence with County Boards of Elections suggests otherwise. Importantly though, the difference-in-differences design does not require that polling place changes are randomized. I discuss the identification assumptions for my design and provide tests of these assumptions in Section 3.

Several features of North Carolina elections make it a hard test case for whether polling place location changes cause a decrease in political participation. First, in North Carolina citizens can use several methods to vote. Of course, one option is to vote in person at one's polling place on Election Day. ¹¹ Alternatively, a voter might vote no-excuse absentee by mail or use early in-person absentee voting. For this study, I call these options convenience voting, defined as voting on a day other than Election Day. Convenience voting is fairly common in North Carolina compared to other states, particularly in general elections (Gronke, Galanes-Rosenbaum, and Miller 2007). ¹² Table 1 shows that convenience voting is actually more common than Election Day voting in North Carolina general elections. About 55% of general election voters in North Carolina used convenience voting methods in the 2008-2016 general elections. Convenience voting is less common in primary elections – about 24% of primary

¹¹A voter who decides to vote at their polling place on Election Day has the option to remain in the car outside of their polling place and vote "curbside" due to age or physical disability. In this case, a poll worker brings the ballot to the voter. For the purpose of this study, I code curbside voters as voting in-person on Election Day.

¹² Also, see http://www.electproject.org/2012_early_vote

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Table 1 – Descriptive Statistics, Individual Level, North Carolina, 2008–2016.

	General			Primary			
	Mean (1)	Std. Dev. (2)	N (3)	Mean (4)	Std. Dev. (5)	N (6)	
Voted	0.546	0.498	13,315,719	0.250	0.433	12,063,514	
Voted at Polling Place Voted Convenience	$0.254 \\ 0.292$	$0.435 \\ 0.455$	13,315,719 13,315,719	0.192 0.058	$0.394 \\ 0.234$	12,063,514 12,063,514	
Polling Place Change	0.059	0.236	13,315,719	0.066	0.248	12,063,514	

Note: The first three columns present individual level descriptive statistics for general elections, while the last three columns are for primary elections. The polling place change variable is calculated as whether an individual voter has had her polling place location changed since the last general (or primary) election two years prior. Voted is calculated as the sum of Voted at Polling Place and Voted Convenience

election voters used convenience voting methods in the 2008-2016 primary elections. Given that convenience voting is so common in North Carolina, we might expect the effects of polling place changes to be smaller than in other settings. A smaller proportion of the electorate uses Election Day polling place voting in the first place, and voters facing polling place changes have a whole host of voting methods available to substitute toward in order to help alleviate the voting costs associated with polling place changes.

Second, the average voter in North Carolina that experiences a polling place change is no closer or farther than from their original polling place. In other words, this is a setting with very little precinct or polling place consolidation. Rather, the vast majority of these polling place changes are simply polling place location changes without a change or consolidation of precincts. The left panel in Figure 2 shows the distribution of Euclidean distances from voters' registration addresses to their assigned Election Day polling place. The vertical line shows that the mean distance from polling place is about 1.5 miles. The right panel in Figure 2 shows the distribution of change in polling place distance for those voters who experienced polling place changes between any two given elections. The mean of this distribution are both

¹³Here I use distance from an individual's registered address to their polling place, but this might be a noisy measure of distance if voters consider distance from locations other than their address, like their workplace for example (Stein and Vonnahme 2008). This would attenuate estimates of the effect of changes in polling place distance on turnout.

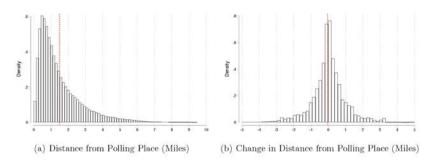


Figure 2 – Polling Place Distance – The figure on the left shows the density of polling place distances in miles, with the vertical dashed line representing the mean polling place distance. The right figure shows the change in polling place distance among those who experienced a polling place change, with the vertical dashed line again representing the mean.

very close to zero, suggesting that there is not widespread precinct consolidation in North Carolina during this period. In Figure A.5 in the Appendix, I show the change in distance from one's polling place among different groups of voters and by partisan composition of County Boards of Elections, which are responsible for determining polling place locations. I do not find systematic differences in changes in polling place distance along these dimensions.

Third, North Carolina law requires that County Boards of Elections take several steps to notify voters of polling place changes. More than 6% of voters had their polling place changed between any two given elections, and about 19% of voters experience a polling place change at some point from 2008-2016. For each of these voters experiencing a polling place change, North Carolina law requires that counties take several steps to notify affected voters. The law requires that,

"Notice [of precinct or polling place changes] shall be given by advertisement in a newspaper having general circulation in the county. Notice may additionally be

¹⁴To avoid bias from selection into treatment, I omit registrants that change their address from the previous election period. Because movers make the decision about whether to re-register at their new address, I only want to keep those whose address has not changed but who have their polling place location changed between elections.

made on a radio or television station or both. No later than 30 days prior to the ... election, the county board of elections shall mail a notice ... to each registered voter who as a result of the change will be assigned to a different voting place." ¹⁵

While one might expect polling place changes to decrease turnout likelihood by increasing the costs associated with voting, these notification requirements suggest a potentially offsetting effect on turnout through mobilization. If citizens are sent a mailer describing how to vote at their new polling place on Election Day and are informed of polling place changes through a variety of media outlets, these notifications could mitigate the information costs associated with finding a new polling place. For these reasons, North Carolina represents a case where one might expect the effects of polling place changes on turnout to be less extreme than in other settings – where there are fewer alternatives to Election Day voting or where notification requirements about polling place changes are less stringent.

I also limit the analysis to North Carolina because it has useful information about voters and polling place locations that is not available in other states. The North Carolina voter file has individual-level voter turnout, along with vote method, for every election dating back to the 2008 primary. It also contains information on voter names, registration address, party registration, age, and race. But most importantly, unlike other states North Carolina keeps a series of voter file snapshots. One well-known issue with using voter files in these types of analyses is that their composition changes over time. If individuals who have their polling places changed drop out of the voter file at a different rate than those who do not, then failing to include these voters would induce a post-treatment bias in the estimates. To avoid this, I use the North Carolina voter file snapshots to include all voters who appear in earlier versions of the voter file but were eventually removed, and I code them as not having voted. Observing the voter file at various points in time over the course of study period also helps to minimize issues related to re-precincinting over time. Given that I can observe a voter's assigned precinct during multiple periods, I can mitigate the error in determining a voter's

 $^{^{15}} See\ http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=163-128$

assigned polling place that would be generated by changing precinct boundaries. I provide a detailed description of how I assembled the dataset in Section A.4 of the Appendix.

3 Polling Place Changes Decrease General Election Turnout

I first estimate the effects of polling place changes on voter turnout using a difference-indifferences design. Specifically, I estimate equations of the form

$$Voted_{it} = \beta Polling Place Change_{it} + \gamma_i + \delta_t + \epsilon_{it}, \tag{1}$$

where $Voted_{it}$ takes on a value of 1 if individual i voted in election t, and 0 otherwise. In some specifications, this is defined as voting in person on Election Day or voting using convenience methods. The variable Polling Place Change takes on a value of 1 if individual i had their Election Day polling place changed between the election in time t and the election in time t-1. The γ_i and δ_t terms represent individual and year fixed effects, respectively. In this difference-in-differences framework, I compare within-voter changes in turnout over time across the polling place change treatment. For the estimate to be causal, it is not required that polling place changes occur at random. In Section 2 I discuss some of the reasons why polling place changes occur, and they certainly are not randomized. Rather, to identify the effect, the parallel trends assumption must be satisfied - that is, it must be that the turnout trends for voters that did not experience polling place changes provide a valid counterfactual trend for voters that did experience a polling place change. I use three strategies to test the plausibility of the parallel trends assumption in Section A.3 of the Appendix. I include a lead of the polling place variable to check for evidence of pretrending, I vary the set of fixed effects to construct alternative counterfactual trends, and I model the dynamic effect of polling place changes (Angrist and Pischke 2008; Autor 2003). All of the results, which I discuss in more detail in the Appendix, are reassuring that parallel trends is a valid assumption.

Table 2 – Effects of Polling Place Changes on General Election Turnout, Individual Level, 2008-2016.

	(1)	(2)	(3)			
		A. Voted				
Polling Place Moved	-0.011 (0.002)	-0.019 (0.009)	-0.008 (0.007)			
	B. Vote	ed at Polling	; Place			
Polling Place Moved	-0.010 (0.003)	-0.030 (0.019)	-0.016 (0.012)			
	C. Voted Convenience					
Polling Place Moved	-0.001 (0.003)	0.011 (0.015)	0.008 (0.009)			
Sample	Full	Primary	General			
N	13,315,719	2,383,803	$1,\!595,\!522$			
# Voters	3,869,787	$1,\!257,\!927$	1,100,761			
Election FEs	Yes	Yes	Yes			
Voter FEs	Yes	Yes	Yes			

Robust standard errors clustered by precinct in parentheses. The outcome in Panel A is voting in the general election, the outcome in Panel B is voting at the polling place in the general election, and the outcome in Panel C voting using convenience methods in the general election. The full sample includes all voters, the primary sample subsets to those who voted in the primary election in the present year, and the general sample subsets to those who voted in the prior general election but not in the primary in the present year. Polling Place Moved is a binary variable indicating that one's polling place location changed from the previous general election (or from the primary election for Panel B).

Table 2 presents the main difference-in-differences estimates, which includes individual and election fixed effects. In Panel A, the outcome is whether or not the individual voted in the general election, and the polling place moved variable is whether or not the voter had their polling place moved since the previous general election. The estimate of interest, the coefficient on the polling place moved variable, suggests that having one's polling place moved decreases a voter's general election turnout likelihood by 1.1 percentage points, on average (column 1).

While the first column estimates the overall effect of polling place changes on a voter's likelihood of voting in the general election, the sample in that column includes registrants who did not vote at their Election Day polling place prior to receiving the polling place change treatment. To the extent that polling place changes only impose costs on voters who already have knowledge of the original polling place location, many of the observations coded as having had a polling place change do not actually incur these additional costs. One might be tempted to consider an alternative treatment variable, where polling place change is coded as a 1 if a voter's polling place has changed since the last time they voted. However, that would induce post-treatment bias because the polling place change variable would be a function of the voter's turnout behavior after the initial polling place change occurs, and it would lead me to drastically overestimate the magnitude of any demobilizing effect. To zoom in on voters likely affected by polling place changes, but still avoid concerns about posttreatment bias, in column 2 I subset to individuals who voted at their polling place in the primary election and then went on to have their polling place changed between the primary and general election. I find that polling place changes decrease turnout by 1.9 percentage points among this subset of voters. Of course, the estimate in column 2 is for a specific group of voters - those who vote at their polling place during the primary - who perhaps are types that are more likely to acquire information about polling place changes than the the general voting population. In column 3 I subset to voters who voted at their polling place in the previous general election, again with the idea that voters are most likely to incur the search costs associated with polling place changes if they have previously voted at the polling polling place. The outcome in Panel B is voting at one's polling place on Election Day, while the outcome in Panel C is voting using convenience methods. As expected, the decrease in turnout associated with polling place changes is concentrated in polling place voting, not in convenience voting. 16 I report results for primary rather than general election

¹⁶In Table A.8 in the Appendix, I further decompose convenience voting into absentee by mail and early in person voting. The results show that polling place changes do not cause a meaningful decline in either voting absentee by mail or voting early in person.

turnout in Table A.9 of the Appendix. Interestingly, the magnitude of the effects is much smaller in primary election settings, which suggests that the voting costs imposed by polling place changes are more important for general election voters.

One desirable feature of this design is that it controls for common-shocks affecting turnout. It controls for changes to voting procedures that affect all voters in the state, like the implementation of same day voting registration for early voters in 2007. However, if these voting reforms affect turnout differently for different types of voters, and these differences also correlate with polling place changes, that could introduce bias in the estimate. For example, if students are more likely to use same day voting registration and are more likely to have their polling place changed, this would lead me to underestimate the magnitude of the effect of polling place changes. To control for these types of potential confounders, in Table A.5 in the Appendix I include different sets of time fixed effects in order to vary the control units used to construct counterfactual turnout trends. For example, I use county-by-age-by-election fixed effects so that each treated unit's counterfactual turnout trend is computed using only individuals who are the same age and live in the same county but did not experience a polling place change. The effects are similar across a variety of specifications in Table A.5, suggesting that the differential impact of other statewide voting reforms are not driving the results.

So far, I have estimated the overall effect of a polling place change on turnout. However, polling place changes could have two effects, which I can separate empirically. In Section A.2 in the Appendix, I present a simple model to illustrate these different possible effects. The first is the search effect from the costs of finding a new polling place after it has changed, while the second is a transportation effect from the change in distance to the polling place after it has changed (Brady and McNulty 2011). To separate these effects, I use GIS software to geocode each voter's address from the voter file along with their corresponding polling place, and I calculate the voter's distance from their Election Day polling place in every election. For each voter, therefore, I can observe not only whether or not their polling place

was changed, but also how far their old and new polling places are from their registered address.¹⁷ I evaluate distance from polling place as the Euclidean (straight-line) distance from a voter's address in the voter file to their assigned polling place.¹⁸ Then, I define a change in distance variable (shown in the right panel of Figure 2), and construct deciles of these changes in distance. Next, I estimate the effect of polling place changes on turnout (the equivalent of the model from Column 1 in Panel A of Table 2) for each distance change decile. For example, the treatment group for the first decile contains voters experiencing polling place changes whose new polling place is much closer to them than their previous polling place, while the treatment group for the tenth decile contains voters whose new polling place is much farther from them than their previous polling place. If voters are sensitive to transportation costs, the demobilizing effect of polling place changes should be larger for those in higher deciles. Figure 3, however, shows no clear relationship between the effect of polling place changes across changes in distance.¹⁹ This is at least suggestive evidence that most of the decline in turnout caused by polling place changes can be attributed to the search costs associated with polling place changes rather than transportation costs.

Next, I estimate whether these general election polling place change effects differ across subgroups. Critics of changes to voting rules argue that these changes disproportionately burden minority communities, who also tend to support Democratic candidates. Are these groups more sensitive to polling place changes? In Table A.10 in the Appendix I interact polling place changes with whether a voter is registered as a Democrat, whether a voter's race is listed as Black in the voter file, and a zip code-level measure of percent urban as

¹⁷One limitation of this approach is that the distance calculation is from a voter's registered address. Voters, of course, could evaluate distance costs from other locations, such as place of employment, when considering distance from polling place in their turnout decision.

¹⁸One might argue that Euclidean distance does not accurately capture the transportation costs from a voter's residence to their polling place, especially in urban areas. As a robustness check, in Section A.2 in the Appendix I do all distance analyses using a Manhattan distance metric. The results are substantively similar, which is unsurprising given that previous research in this area finds that these types of results are often not sensitive to choice of distance metric (Haspel and Knotts 2005; McNulty, Dowling, and Ariotti 2009).

¹⁹In Figure A.2 in the Appendix, I show that the results are substantively similar if I use Manhattan distance rather than Euclidean distance.

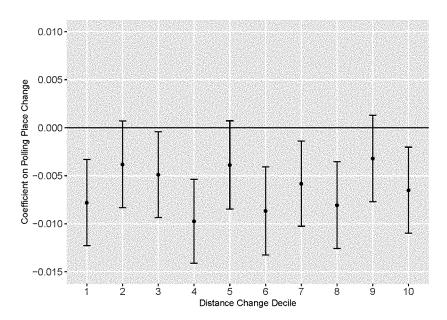


Figure 3 – Effect of Polling Place Change Across Distance Change

This figure shows coefficient estimates of the effect of polling place changes on turnout across changes in polling place distance. The x-axis is the decile of the change in distance from one's polling place. Each point represents a coefficient estimate from the specification in Column 1, Panel A of Table 2, but using only those within distance change decile as the treatment group. There appears to be no systematic relationship between change in polling place distance and the effect of polling place changes, suggesting that most of the effect can be attributed to search costs rather than transportations costs.

defined by the US Census. Overall, there is not strong evidence to suggest that the effects of polling place changes vary importantly along these dimensions. The effect on voting at one's polling place is about 0.7 percentage points larger (more negative) for Democrats than for non-Democrats, but Democrats facing polling place changes are slightly more likely to use convenience voting methods.

3.1 Effect Size and Possible Sources of Attenuation Bias

So far, I have shown that polling place changes decrease general election turnout, and in Section 2 I discussed some of the features of North Carolina elections that make it a setting where we might expect to see smaller effects of these changes than in other settings. In this section, I elaborate on some of the features of the data that might also lead to underestimating the magnitude of these effects. First, as outlined before, the specification in column 1 includes registrants who had never voted at their Election Day polling place prior to experiencing the polling place change. To zoom in on voters who had voted at their polling place before it was moved, I subset to subset to primary voters in Panel B of Table 2. I see that the demobilizing effect is much greater among these voters.

Second, the voter file snapshots used to generate assigned precincts for each election period are measured infrequently.²⁰ To the extent that re-precincting along with occasional differences between the voter file snapshot date and the election date generate precinct mismeasurement, it is possible that some voters that experienced a polling place change due to re-precincting will be coded as not being "treated" with the polling place change, or vice versa. Because there are only a few elections for which I do not have a voter file snapshot from the exact election date, this source of bias is unlikely to be a major concern. Third, in order to avoid selection into treatment induced by voters moving and re-registering, I only include registrants whose address remains the same from the previous election period. Therefore, the effects are local to stayers rather than movers, a subset of people that we might have

²⁰In Section A.4 of the Appendix I provide a detailed description of voter file snapshot dates and generating each voter's precinct for a given election.

reason to believe are less sensitive to voting costs associated with polling place changes. For example, they could be more familiar with their neighborhood, have lower transportation costs, or be more likely to acquire information about polling place changes. Lastly, these estimates report the general equilibrium effect of polling place changes, so it includes the mobilizing effect of counties, parties, and other groups strategically responding to polling place changes by informing and mobilizing voters.²¹ Given that I still find negative effects of polling place changes on turnout, we can be confident that there is at least a negative partial equilibrium effect of polling place changes on turnout.

3.2 Polling Place Changes Do Not Decrease Democratic Vote Share

Related to heterogeneous effects of polling place changes on turnout, critics of changes to voting rules argue that they will disadvantage Democrats in elections. To test this, in Table 3 I use difference-in-differences to estimate the effects of polling place changes on the precinct-level Democratic two-party vote share in US President, US Senate, and US House elections. The first two columns estimate the effects for Presidential races, so it includes the 2008, 2012 and 2016 elections. The second two columns estimate the effects for the US Senate, which includes each general election from 2008-2016 except for 2012. The last two columns estimate the effects for the US House, so it includes all general elections from 2008-2016. Each specification includes precinct and election fixed effects, and even-numbered columns weight the estimates by the number of registrants in each precinct. Overall, I find precisely estimated null effects of polling place changes on Democratic vote shares in elections for the US President and US Senate. The point estimates range from about -0.15 to 0.3 percentage points, and we can generally rule out effects greater than about 1 percentage point. The last two columns suggest that, if anything, polling place changes cause a small increase in

²¹A long history of political science literature documents how political parties seek to mobilize voters (e.g., Huckfeldt and Sprague 1992; Morton 1991; Rosenstone and Hansen 1993; Shachar and Nalebuff 1999; Uhlaner 1989).

US House Democratic vote share, which is the opposite of what the conventional wisdom around the effects of polling place changes on elections would predict.

Table 3 – Effects of Polling Place Changes on Democratic Vote Share, Precinct Level, 2008-2016.

Democratic Vote Share	President		US Senate		US House	
	(1)	(2)	(3)	(4)	(5)	(6)
PP Change	0.020	-0.154	0.312	0.269	0.990	1.391
	(0.433)	(0.450)	(0.433)	(0.476)	(0.561)	(0.647)
N	3,214	3,214	4,270	4,270	5,347	5,347
# Precincts	1,110	1,110	1,109	1,109	1,110	1,110
Election FEs	Yes	Yes	Yes	Yes	Yes	Yes
Precinct FEs	Yes	Yes	Yes	Yes	Yes	Yes
Precinct Weights	No	Yes	No	Yes	No	Yes

Note: Robust standard errors clustered by precinct in parentheses. The outcome is two-party Democratic vote share for President (Columns 1 and 2), US Senate (Columns 3 and 4), and US House (Columns 5 and 6). PP Change is a binary indicator for whether the precinct's general election polling place was changed from the previous general election. Even-numbered columns include weights for the number of voters in the precinct-year.

4 Understanding the Information Mechanism

The results presented so far suggest that information is the primary mechanism by which polling place changes reduce turnout. For example, I find that the majority of the decline in turnout induced by polling place changes can be attributed to the search costs associated with finding a new polling place rather than travel costs. In this section, I present a series of tests to help understand more about how providing information to voters about polling place changes affects their likelihood of political participation.

4.1 Democrats Increase Spending in Areas with More Polling Place Changes

 $\label{lem:contrary} Contrary \ to some \ of the conventional wisdom around heterogeneous \ effects \ of \ election \ changes$ $- \ that \ these \ changes \ cause \ a \ disproportion at \ decline \ in \ turnout \ among \ Democratic \ voters - I$

reported earlier that polling place changes do not cause a differential turnout declines among Democratic and Black registrants, and they do not cause a decrease in Democratic vote share. There are two potential explanations, however, for these findings. First, it could be that the average effect for each of these subgroups is indeed similar to their reference group. Second, it could be that these groups would have incurred larger voting costs from polling place changes, but parties and other groups strategically mobilize and provide information about polling place changes to those perceived as being disproportionately burdened by these types of election changes. To test this, in Table 4 I estimate the effects of polling place changes on spending by the North Carolina Democratic and Republican parties. The outcome variable is the logged value of the total disbursements that parties report to the Federal Election Commission (FEC), plus one. The data on disbursements is reported at the zip code-level, so the unit of analysis is the zip code-election year. Because I can observe a voter's registered zip code in the voter file, I construct the treatment variable as the proportion of voters in the zip code that experience a polling place change before the general election in a given year, and this variable ranges from 0 (meaning no voters in the zip code had their polling place changed) to 1 (meaning all voters in the zip code had their polling place changed). I include zip code fixed effects in all specifications in order to control for the time-invariant characteristics of a zip code that influence spending - like where the party is headquartered, for example. I also include election fixed effects to control for common shocks to all zip codes across years - for example, parties spend more in presidential election years than in nonpresidential election years. The first two columns report the effects of polling place changes on disbursements for the North Carolina Democratic Party, while the second two columns report the effects for the North Carolina Republican Party. Odd-numbered columns include all disbursements, while even-numbered columns subset only to campaign-related spending. Overall, I find that the North Carolina Democratic Party increases its spending in zip codes where more voters experienced polling place changes.²² Meanwhile, I do not find evidence that the North Carolina Republican Party increases its spending in zip codes with more polling place changes. While the estimates are somewhat noisy, it does provide suggestive evidence for the explanation that parties respond strategically to election changes, and this could be at least part of the explanation for why we do not observe disproportionate decreases in turnout among Democratic or Black voters and why we do not find effects of polling place changes on Democratic vote share. The observed non-effects on vote share, in equilibrium, could be capturing the increased efforts of the Democratic party to inform and mobilize voters affected by polling place changes.

4.2 Older Voters and Homeowners are More Likely to Substitute Toward Convenience Voting

I can also exploit other individual-level heterogeneity in treatment effects to provide another test of the information mechanism in explaining turnout. North Carolina law requires that polling place change notices be circulated by newspaper, a resolution posted at the county board of elections office, and through mailers sent to individuals affected by polling place changes. Counties also sometimes provide notice through radio or television. Given that these forms of communication about polling place changes are often through traditional media and information sources, we might expect that older voters and homeowners would be less sensitive to the voting costs imposed by polling place changes.

In Table 5 I explore how the effects of polling place changes vary by homeownership and age. While it is not a perfect measure, here I think of homeownership as an individual-level proxy for socioeconomic status. The information on homeownership comes from CoreLogic, a private data vendor that collects public tax and deed records from each county in the United

²²There is almost certainly a good deal of measurement error in the reported zip code for the disbursements and the zip code where the campaign funds are actually spent. For example, parties will often report large expenditures for printing, postage, or robo-calls to an out-of-state zip code. The extent to which there is measurement error in the FEC-reported zip code and the zip code that the expenditures eventually targets, however, should attenuate the reported estimates.

Table 4 – Effects of Polling Place Changes on State Party Committee Spending, Zip Code Level, 2008-2016.

	Democi	ratic Party	Republican Party		
Log(Disbursements + 1)	All	Campaign	All	Campaign	
		Expenses		Expenses	
	(1)	(2)	(3)	(4)	
% PP Change	2.984	2.926	0.114	-0.245	
	(0.934)	(0.890)	(0.881)	(0.819)	
N	1,994	1,994	1,994	1,994	
# Zip Codes	424	424	424	424	
Election FEs	Yes	Yes	Yes	Yes	
Zip Code FEs	Yes	Yes	Yes	Yes	

Note: Robust standard errors in parentheses. The outcome in each column is the logged value of the total number of disbursements in the zip-code plus one. Columns 1 and 2 use disbursements from the North Carolina Democratic Party, while Columns 3 and 4 use disbursements from the North Carolina Republican Party. Columns 1 and 3 include all disbursements reported to the Federal Election Commission, while Columns 2 and 4 include only campaign-related disbursements. % PP Change is the proportion of voters in each zip code whose Election Day polling place location was changed from the previous general election. Estimates are weighted by the number of voters in the zip code.

States. The data includes information on property type, names of property owners, full address, and purchase date and purchase price of properties, along with other information. I merge these property records to the North Carolina voter file to identify which registered voters are homeowners. I describe the details of the linking procedure in the Appendix.

I find that the decline in turnout from polling place changes is 0.8 percentage points smaller for homeowners than for non-homeowners. Perhaps more interestingly, homeowners are less likely than non-homeowners to vote at their polling place when their polling place is changed (Column 3), but they are much more likely to substitute toward convenience voting than non-homeowners (Column 5). That is, the vote method switching behavior is concentrated among homeowners. Again, mapping the empirical results back to the theory, it appears that high SES individuals tend to be potential switchers, while lower SES individuals

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Table 5 – Effects of Polling Place Changes on General Election Turnout by Homeownership and Age, Individual Level, 2008-2016.

	Voted		Voted at Polling Place		Voted Co	nvenience	
	(1)	(2)	(3)	(4)	(5)	(6)	
PP Change	-0.014	-0.018	-0.006	0.002	-0.009	-0.020	
	(0.002)	(0.006)	(0.003)	(0.008)	(0.003)	(0.006)	
Homeowner	0.032	,	0.016		0.016	. ,	
	(0.002)		(0.002)		(0.002)		
PP Change * Homeowner	0.008		-0.013		0.022		
	(0.003)		(0.005)		(0.006)		
Age 31-45		0.001		0.015		-0.014	
		(0.001)		(0.001)		(0.001)	
PP Change * Age 31-45		0.010		-0.004		0.014	
		(0.006)		(0.007)		(0.005)	
Age 46-60		0.024		0.019		0.005	
		(0.002)		(0.002)		(0.002)	
PP Change * Age 46-60		0.007		-0.017		0.024	
		(0.007)		(0.009)		(0.007)	
Age 61-75		0.055		0.015		0.040	
		(0.002)		(0.002)		(0.002)	
PP Change * Age 61-75		0.003		-0.025		0.028	
		(0.008)		(0.010)		(0.007)	
Age 76 +		0.026		0.008		0.018	
		(0.003)		(0.002)		(0.003)	
PP Change * Age 76 +		0.012		-0.021		0.033	
		(0.009)		(0.009)		(0.007)	
N	13,315,719	13,315,719	13,315,719	13,315,719	13,315,719	13,315,719	
# Voters	3,869,787	3,869,787	3,869,787	3,869,787	3,869,787	3,869,787	
Election FEs	Yes	Yes	Yes	Yes	Yes	Yes	
Voter FEs	Yes	Yes	Yes	Yes	Yes	Yes	

Note: Robust standard errors clustered by precinct in parentheses. The omitted category in the age regressions is Age 18-30. Homeowner is an indicator for whether the individual is listed as a homeowner at any time in the period between the general election and the prior general election. The outcome in Columns 1 and 2 is a whether an individual voted in the general election, the outcome in Columns 3 and 4 is whether an individual voted at her polling place in the general election, and the outcome in Columns 5 and 6 is whether an individual voted using convenience methods in the general election.

uals tend to be potential abstainers. In terms of bias specific to the homeowner indicator, any errors in merging the voter file to the property records could generate false positives or negatives. However, this merge error would attenuate the effects in the homeownership interaction, so finding a difference nonetheless provides compelling evidence that there are indeed differences in how homeowners and non-homeowners respond to polling place changes.²³

There are also important differences in the effects with respect to age. I construct five age bins and include a set of age interactions with age 18-30 as the omitted category. Looking at the interaction terms in Column 2 of Table 5, all of which are positive, it appears that older voters are slightly less sensitive to polling place changes than younger voters – although the interaction effects are imprecisely estimated. Also, older voters, much like homeowners, are much more likely to exhibit this switching behavior in response to polling place changes than younger voters. Examining the interaction terms in Columns 4 and 6, older voters are less likely than younger voters to vote at their polling place in response to a polling place change, but they are much more likely to vote using convenience methods. The results for vote method helps to clarify a potential mechanism, which is that older voters are able to acquire information about their polling place location, and they are perhaps even mobilized by this information. This heterogeneity in effects by age could be driven by differences in the ease and method by which older and younger voters seek out or can be reached with information about voting changes.

4.3 Providing Information to Voters Has a Mobilizing Effect

An ideal experiment designed to test the information mechanism directly would be to randomize whether or not a voter receives information when their polling place is changed, and

²³I also estimate how the difference in effects of polling place changes between homeowners and non-homeowners varies by wealth. In Figure A.4, I create home value deciles and estimate the interaction term from Column 1 of Table 5 for each home value decile. The dotted line in Figure A.4 represents the coefficient estimate on the interaction term in Column 1 of Table 5, which can be interpreted as the difference in effects of of polling place changes for homeowners versus non-homeowners. Each point, then, represents this coefficient estimate for each home value decile. Given that there is no clear relationship between the coefficients across home value deciles, we can conclude that homeowners seem to be less sensitive to polling place changes than non-homeowners, regardless of wealth.

examine whether the effect of the polling place change on turnout varies with information provision. Unfortunately (from the researcher's perspective), all voters in North Carolina are provided with informational mailers notifying them of polling place location changes, per North Carolina law. In the absence of this type of randomization, I test for the effect of polling place-related information provision on turnout by exploiting a specific policy in Wake county that generates a natural experiment. In Wake County, voters are notified by the County Board of Elections when the name of their assigned polling place changes, regardless of whether or not the physical location of the polling place changed. The County Board sends new voter registration cards to any voters experiencing polling place changes, but they also send new voter registration cards with a special insert indicating when there has been a polling place name change even if there is no change in polling place location. A copy of the insert is shown in Figure A.6 in the Appendix. If it is the case that providing information to voters about their polling place location increases turnout likelihood, then we should observe higher turnout on average among voters that receive this additional informational mailer even when their polling place location has not changed. To test this, in Table 6 I subset to voters in Wake County that did not have their polling place location changed from the previous election, meaning I hold the actual polling place fixed for all voters in the sample. The treatment, then, is whether or not the polling place name had changed from the previous election period, which generates the informational mailer. I estimate the effect of the polling place name change on turnout and find that voters receiving the polling place mailer are more likely to vote at their polling place, but not more likely to use convenience voting methods. This is additional suggestive evidence that information provision about polling place location plays a critical role in voters' turnout decisions.

Table 6 - Effect of Polling Place Name (but not Location) Changes on Turnout, Wake County, Individual Level, 2008-2016.

	Voted		Voted at P	Olling Place	Voted Convenience	
	(1)	(2)	(3)	(4)	(5)	(6)
PP Name Change	0.061	0.018	0.054	0.022	0.007	-0.004
	(0.052)	(0.012)	(0.013)	(0.013)	(0.052)	(0.012)
N	5,146,719	5,146,719	5,146,719	5,146,719	5,146,719	5,146,719
# Voters	861,286	861,286	861,286	861,286	861,286	861,286
Election FEs	No	Yes	No	Yes	No	Yes

Note: Robust standard errors clustered by precinct in parentheses. The sample includes voters in Wake County, North Carolina whose polling place location remained the same between elections. The outcome in Columns 1 and 2 is a whether an individual voted in the general election, the outcome in Columns 3 and 4 is whether an individual voted at her polling place in the general election, and the outcome in Columns 5 and 6 is whether an individual voted using convenience methods in the general election. PP Name Change is an indicator for whether or not the name of the voter's assigned polling place was changed, which generates an informational mailer about the polling place location. The table shows that voters who received additional information about their polling place were more likely to vote at their polling place than those who did not receive the additional information.

5 Conclusion

In this paper, I have shown that polling place changes decrease general election turnout, and I show suggestive evidence that this decrease comes primarily through search costs rather than through transportation costs. Moreover, I find that declines in polling place turnout are concentrated among younger voters and non-homeowners, groups that we expect to be less likely to acquire information about polling place changes through the traditional means of communication used by counties to notify voters of these changes. This has important policy implications. If parties and other groups are interested in mitigating the turnout decline caused by polling place changes, they should provide information for and mobilize groups of voters that are less likely to acquire information through the modes of communication outlined by North Carolina's notification requirements. It also suggests that concerns over transportation costs are overblown relative to the confusion induced by polling place changes, at least in North Carolina.

To what extent can I generalize beyond the context of North Carolina? Unfortunately, other states do not offer both polling place lists going back many years along with voter file snapshots to match voters to polling places for many elections over time, so empirically it is difficult to say. Turnout decisions are admittedly context-specific, and North Carolina is a battleground state with a particularly unique set of election laws, from high availability of early voting options, same-day voter registration since 2007 (but only during the early voting period), and a host of other changes implemented in 2013.²⁴. Nonetheless, the difference-indifferences design controls for unobservable characteristics that affect all counties similarly, like statewide changes to election administration. Because North Carolina offers a robust set of early and convenience voting options, I suspect that the demobilizing effect of polling place changes is smaller in North Carolina than in other states that do not offer similar early voting opportunities. This effect is meaningful: although there has been a trend away from in-person polling place voting in U.S. election administration, 22 states still do not offer no-excuse absentee voting by mail.²⁵ 12 states do not offer any early voting opportunities without an excuse, including many Southern states. I show evidence in this paper that voters facing polling place changes substitute toward other forms of voting options, so while many states do not offer similar convenience voting opportunities, the effect I estimated has important policy implications.

This information mechanism could also matter for election reforms beyond polling place changes. Of course, this study is limited in its focus on one specific type of change – the location of polling places – so the empirics cannot speak directly to the effects of many statewide election reforms like no-excuse absentee voting, registration requirements, sameday registration, or voter ID laws. Nonetheless, the information mechanism outlined in this article might extend to other areas of election reform like registration requirements, early voting opportunities, and voter ID laws, which would be consistent with previous work on information provision to reduce barriers to voting (e.g., Fraga 2018). When states either impose or lessen voting costs through changes to election administration, voters must acquire information about these changes. In the case of voter ID laws, voters must acquire

²⁴https://www.ncleg.net/Sessions/2013/Bills/House/PDF/H589v8.pdf

 $^{^{25} {\}tt http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx.}$

information about what type of identification is acceptable to be able to vote and how they can acquire an acceptable form of identification. For election reforms designed to expand voting opportunities, like early in-person voting, voters must acquire information about the location of early voting centers along with their days and hours of operation. Therefore, the evidence for the informational mechanism in this paper likely extends to many of the statewide election reforms, where estimating causal effects has been a methodological challenge for researchers. Overall, the evidence in this paper suggests that providing information to voters is an important way to increase turnout in the face of informationally costly election reforms.

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Online Appendix

Intended for online publication only.

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A.1 Unifying the Results with Existing Research

Clinton et al. (N.d.) estimates the effects of polling place changes in North Carolina using slightly different data, which creates a unique opportunity to aggregate evidence across our two studies to learn more about how polling place changes affect voter turnout. In this section, I compare my results to three main findings in Clinton et al. (N.d.), and I use these comparisons to illustrate how polling place changes might affect voters in different ways depending on the voter's characteristics and the electoral context. Specifically, three of the main findings in Clinton et al. (N.d.) are (1) that polling place changes have no effect on overall turnout, on average, but they do reduce Election Day turnout and cause a substitution toward early voting, and (2) that voters consider changes in polling place distance when choosing their vote method, and (3) that there is at least suggestive evidence of potential differential effects of polling place changes by race.

I come to one main conclusion from the analyses below. When I use a similar difference-in-differences design but include a longer panel that includes non-presidential years, I find that polling place changes cause a 1 to 2 percentage point decline in overall turnout, on average. This finding differs slightly from Clinton et al. (N.d.), but I obtain results quite similar to theirs when I zoom in on presidential elections in 2012 and 2016, as they do. This highlights the importance of aggregating information across these two studies to understand more about how and when voters might be affected by polling place changes.

From the analyses below, I also generate two other conclusions. First, while voters certainly take distance from their polling place into account when deciding whether to vote on Election Day or using convenience voting options, using my difference-in-differences design I find that changes in distance from one's polling place do not seem to differentially affect turnout. Rather, the search costs that voters incur from the polling place change itself reduces their turnout likelihood regardless of how the polling place distance has changed, at least in North Carolina. Second, I do not find differential effects of polling place changes by race, but I do find that vote method substitution in response to polling place changes is particularly concentrated among older voters and homeowners.

In the following subsections, I compare results across the two studies and elaborate on some of the key differences between the two datasets, which could help explain some of the differences in results.

A.1.1 The Effect of Polling Place Changes on Turnout in Presidential Elections

To begin, I compare my results to the presidential elections results from Clinton et al. (N.d.). The setup is very similar: both studies use change in polling place as the treatment variable and voting (overall, Election Day, and early) as the outcome. However, there are a few key differences in the two datasets. Clinton et al. (N.d.) define the polling place change treatment variable as whether a voter had their polling place changed from the last presidential election. For example, for 2012 a voter is coded as having their polling place changed if their polling place is different from their assigned polling place in the 2008 presidential election. Because I have a panel of polling place assignments in both midterm and presidential election years, my polling place change variable is whether a voter had their polling place changed from the general election two years ago. So, for example, for 2012 a voter is coded as having their polling place change if their polling place is different from their assigned polling place in the 2010 general election. Fortunately, I can reconstruct the polling place change variable from Clinton et al. (N.d.) and subset just to presidential elections, as they do. Following their specification, I also include race-by-year fixed effects in my replication.²⁶ The results are shown in Table A.1, and they are remarkably similar to those in estimated in Clinton et al. (N.d.). For example, the point estimate in column 1 is nearly exactly the same as the one in the main text in Clinton et al. (N.d.), and I also see the pattern of substitution away from polling place voting and toward early voting — although the magnitude of the substitution is slightly smaller in my data than in Clinton et al. (N.d.). One reason for this could be that our original data is constructed slightly differently. Clinton et al. (N.d.) have statewide coverage because their polling place locations were collected for presidential election years from the North Carolina State Board of Elections. To get a longer and more fine-grained panel of polling place changes, I collected polling place locations for every primary and general election from 2006-2016 from individual North Carolina County Boards of Elections. I describe in more detail how I assembled the dataset in section A.4 of the Appendix.

I should also note that the finding here differs slightly from my main result in Table 2, where I find that polling place changes cause between a 1 and 2 percentage point decline in overall general election turnout. One of the advantages of the design that I use for Table 2 is that it includes non-presidential election years, so for the full sample (in column 1 of Table 2, for example), the treatment variable represents a change within two years since the last election instead of four. For example, it could be that voters who have their polling place

 $^{^{26}}$ Clinton et al. (N.d.) also subset to voters whose registration address and polling place are both able to be geocoded in each year, so I also do that for this analysis.

Table A.1 – Effect of Polling Place Changes on Presidential Election Turnout, Individual Level, 2012-2016.

en de la la companya de la companya del companya de la companya del companya de la companya del la companya de	Voted	Voted at Polling Place	Voted Convenience
	(1)	(2)	(3)
PP Change	0.002	-0.009	0.011
	(0.002)	(0.007)	(0.007)
N	2,456,417	2,456,417	2,456,417
# Voters	1,392,296	1,392,296	1,392,296
Race-by-Year FEs	Yes	Yes	Yes
Voter FEs	Yes	Yes	Yes

Note: Robust standard errors clustered by precinct in parentheses. The outcome in Column 1 is a whether an individual voted in the general election, the outcome in Column 2 is whether an individual voted at her polling place in the general election, and the outcome in Column 3 is whether an individual voted using convenience methods in the general election.

changed in 2009 have many elections or other opportunities to locate their new polling place before the 2012 presidential election, so they might be less affected by polling place changes than voters who have their polling place changed just before the 2012 election. In fact, I do find some evidence for this — because I have collected polling place lists for primary elections as well, I can estimate the effect of polling place changes on turnout for those who had their polling place changed between the primary and general election in any given year. I find that, even for high-propensity voters who turn out in primary elections, polling place changes between the primary and general election cause nearly a 2 percentage point decline in overall turnout (see column 2 of Table 2).

A.1.2 The Effect of Polling Place Distance Changes on Turnout in Presidential Elections

After examining the overall effects, I can now explore the evidence from both Clinton et al. (N.d.) and my study on some interesting heterogeneous effects based on changes in distance from one's polling place. Specifically, Clinton et al. (N.d.) finds that the substitution away from Election Day voting and toward early voting depends not only on the polling place change itself, but also on the change in the voter's distance from their polling place. Consistent with Clinton et al. (N.d.), I find that the effect of polling place changes on overall turnout does not seem to depend on changes in polling place distance. In Table A.3 in the Appendix I also include a specification where polling place distance is included as a control

variable, and it suggests that voters certainly consider the distance from their Election Day polling place when deciding whether to vote at their polling place or use conveience voting options. To identify the effect of polling place changes across different changes in distance, I construct distance change deciles for those experiencing a polling place change, and I then estimate the effect of polling place changes separately for each distance change decile. Using this design, polling place distance changes do not seem to differentially alter the effect of polling place changes on Election Day turnout (see Figure 3).

A.1.3 Differential Effects of Polling Place Changes by Race

Lastly, Clinton et al. (N.d.) includes cross-sectional estimates of the polling place change variable interacted with an individual-level indicator of the voter's race, finding that nonwhite voters exhibit less vote method substitution in response to polling place changes than do white voters. In Table A.2 I replicate this Clinton et al. (N.d.) finding using my data. Consistent with their result, the interaction coefficients suggest that non-whites are more likely to continue voting on Election Day and less likely to substitute toward convenience voting when facing a polling place change. As Clinton et al. (N.d.) notes, however, these estimates should be interpreted with some caution. These results could reflect subtle changes to early voting availability by county that differentially affect voters by race. Because polling place changes do not occur at random, one concern would be that polling place changes are happening in areas where convenience voting is becoming less attractive for minority voters. To help identify differential effects of polling place changes by race, I estimate my original difference-in-differences specification from equation 1, but I include an interaction term of polling place change with whether a voter is listed as Black in the voter file. Using this design, in Table A.10, I find that polling place changes decrease overall turnout by about 1.1 percentage points among non-Black voters, and by about 1.6 percentage points among Black voters, although the difference in effects is estimated somewhat imprecisely.²⁷

More generally, both sets of results help speak to the possibility of heterogeneous effects of polling place changes. For example, Clinton et al. (N.d.) shows that the partial correlation between polling palce changes and early voting does not depend meaningfully on the number of early voting locations in a county. In section 4.2, I interact the polling place change indicator with individual-level measures of age and homeownership, and I find that substitution toward convenience voting in response to polling place changes is primarily concentrated among older voters and homeowners. The use of fine-grained, individual-level

²⁷The 1.6 percentage point decrease is the sum of PP Change and PP Change * Black. The main effect for Black is absorbed by the voter fixed effects.

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 ${\bf Table~A.2-Correlates~of~Presidential~Election~Turnout, Individual~Level~by~Race,~2012-2016.} \\$

	Vo	ted	Voted at P	olling Place	Voted Convenience	
	(1)	(2)	(3)	(4)	(5)	(6)
PP Change	-0.008	-0.000	-0.023	-0.040	0.015	0.040
	(0.009)	(0.007)	(0.009)	(0.009)	(0.008)	(0.009)
PP Change \times Non-White	0.000	-0.019	0.011	0.016	-0.011	-0.034
	(0.012)	(0.008)	(0.008)	(0.009)	(0.012)	(0.011)
Non-White	0.003	-0.019	-0.092	-0.066	0.095	0.046
	(0.004)	(0.003)	(0.003)	(0.003)	(0.004)	(0.004)
N	1,408,209	1,082,532	1,408,209	1,082,532	1,408,209	1,082,532
Year Sample	2012	2016	2012	2016	2012	2016
Individual Controls	Yes	Yes	Yes	Yes	Yes	Yes

Note: Robust standard errors clustered by precinct in parentheses. The outcome in Columns 1 and 2 is a whether an individual voted in the general election, the outcome in Columns 3 and 4 is whether an individual voted at her polling place in the general election, and the outcome in Columns 5 and 6 is whether an individual voted using convenience methods in the general election. Individual level controls are indicators for party registration, age, and age squared.

administrative data in both studies can help us understand more deeply how disruptions to Election Day voting might differentially affect certain types of voters.

A.2 Separating Search and Distance Costs of Polling Place Changes

Brady and McNulty (2011) provides a useful model for considering how voters make choices over polling place voting, convenience voting, and abstention. Define the utility of person i from voting at her polling place p to be U_i^p , and the utility from voting absentee or convenience U_i^a . Normalizing the utility of not voting to zero, individual i votes if her utility from polling place voting exceeds the utility from abstention, $U_i^p \geq 0$, or if her utility from absentee voting exceeds the utility from abstention, $U_i^a \geq 0$. If both conditions are satisfied, the individual votes at her polling place rather than using convenience methods if her utility of polling place voting at the polling place exceeds that of absentee voting $(U_i^p \geq U_i^a)$. U_i^a can be written as $b_i - c_i^a$, where b represents the benefits to voting and c^a represents the costs of absentee voting. Similarly, $U_i^p = b_i - c_i^p$, where c^p is the cost of polling place voting. Here, I extend the Brady and McNulty (2011) slightly to illustrate how individuals might vary in their sensitivity to polling place changes. I decompose the polling place cost c^p into a "search" component and a "distance" component, and allow these costs to vary by individual $(c_i^p = s_i + \gamma_i d)$. Thus, individuals can vary in their ability to acquire information about polling place changes s_i . As noted earlier, in North Carolina voters are notified about polling place changes via mail, newspaper, and possibly radio and television. Therefore, the costs of acquiring information about polling place changes will be lower for individuals who receive information from these sources. Individuals might also vary in their sensitivity to polling place distance γ_i . For example, one might expect the marginal cost of traveling an additional mile to a polling place to be higher for those without access to a car or other mode of transportation. Both of these components have observable implications: first, we might expect older or higher income voters, types we might expect to receive information through tradtional media sources, to be less sensitive to the search costs associated with polling place changes. Second, we might expect that voters in densely populated areas, where voters are less likely to use cars to travel to their polling place, are more sensitive to distance costs associated with polling place changes.

Figure A.1 provides a graphical depiction of how voters respond to polling place changes. On the x-axis is distance from polling place, and on the y-axis is the voter's utility. The left panel shows a potential "switcher," or individual whose net benefit of voting absentee exceeds the net benefit of not voting. For these types of voters, the decision is about vote method because utility of voting absentee is constant across polling place distance and is greater than 0. The utility of voting at the polling place, $U^p = b - s - \gamma d$, can be represented very simply graphically. The intercept is b - s (or b when a voter does not face a polling

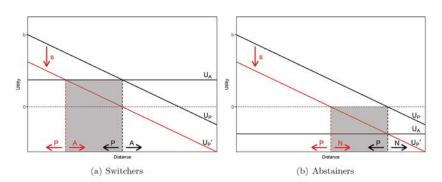


Figure A.1 - Theory of Polling Place Search and Distance Costs

This figure shows two possible effects of polling place changes. The left panel shows potential "switchers," voters for whom the net benefit of voting absentee exceeds the net benefit of abstaining. When this type of voter faces the search costs associated with a polling place change, she becomes less likely on average to vote at her polling place and more likely to vote using convenience methods (represented by the gray shaded box). The right panel shows potential "abstainers," voters for whom the net benefit of voting absentee is less than the net benefit of abstaining. When this type of voter faces a polling place change, she becomes less likely to vote at her polling place and more likely to abstain from voting (again, represented by the gray shaded box).

place change because the search cost s is 0), and the slope of the utility function is γ , or the sensitivity of the voter to distance from polling place. When γ is high, the voter is especially averse to traveling long distances to their polling place. A voter in the left panel votes absentee if she is sufficiently far from her polling place and votes at her polling place if she is sufficiently close to her polling place. When a voter's polling place is changed, her utility of voting at the polling place shifts down vertically by the search cost s, represented by the red line. For potential switchers, it is clear that, on average, we should observe voters facing polling place location changes to use convenience voting methods at higher rates than those without polling place changes. The right panel shows a potential "abstainer," that is, an individual whose net benefit of voting absentee is lower than the net benefit of abstaining. We should observe that overall turnout among voters of this type will be lower on average among those faced with polling place changes compared to those that do not.

²⁸For example, this could be a voter without access to a convenient mode of transportation, or an individual that does not like to travel to a possibly unfamiliar neighborhood to vote.

²⁹This assumes that polling place changes do not decrease voters' distances to their polling place on average, which I show evidence for in Figure 2

Table A.3 – Effect of Polling Place Changes on General Election Turnout, Individual Level, 2008-2016.

		Voted	Voted a	t Polling Place	Voted Convenience		
Sample	Full	Primary Voters	Full	Primary Voters	Full	Primary Voters	
	(1)	(2)	(3)	(4)	(5)	(6)	
PP Change	-0.008	-0.018	-0.011	-0.028	0.002	0.010	
	(0.002)	(0.008)	(0.003)	(0.020)	(0.003)	(0.017)	
PP Distance	-0.003	-0.003	-0.009	-0.024	0.006	0.021	
	(0.002)	(0.002)	(0.002)	(0.006)	(0.003)	(0.006)	
N	8,556,203	1,611,680	8,556,203	1,611,680	8,556,203	1,611,680	
# Voters	2,519,197	791,098	2,519,197	791,098	2,519,197	791,098	
Election FEs	Yes	Yes	Yes	Yes	Yes	Yes	
Voter FEs	Yes	Yes	Yes	Yes	Yes	Yes	

Note: Robust standard errors clustered by precinct in parentheses. The outcome in Columns 1 and 2 is a whether an individual voted in the general election, the outcome in Columns 3 and 4 is whether an individual voted at her polling place in the general election, and the outcome in Columns 5 and 6 is whether an individual voted using convenience methods in the general election. PP Change is a binary variable indicating whether an individual had her Election Day polling place location changed from the previous general election (or from the primary election for the primary sample). PP Distance is the individual's distance from her Election Day polling place.

Table A.3 includes whether or not the the polling place was changed as well as the polling place distance in miles as right-hand side variables, which is designed to estimate the effect of polling place changes after controlling for the voter's distance from their polling place. The first two columns suggest that the majority of the voting costs imposed by polling place changes come in the form of search costs rather than transportation costs. In the full sample, for example, the search cost component decreases turnout by about 0.8 percentage points. Meanwhile, the coefficient on polling place distance is statistically indistinguishable from zero. Columns 3 through 6 help illuminate the role of polling place distance in the turnout decision. Each additional mile in polling place distance is associated with a decrease in the likelihood of voting at one's polling place of about 0.9 percentage points, but it is positively associated with one's likelihood of voting using convenience methods. The role of distance in vote method substitution is even stronger in the sample that subsets on primary voters. Mapping this result back to the theory in Figure A.1, it appears that the sensitivity to polling place distance, is higher for potential switchers than for potential abstainers. The results suggest that, at least in a state with a robust set of convenience voting options like North Carolina, distance costs matter very little for turnout. Potential abstainers seem to abstain because of search costs rather than distance costs, while potential switchers are the ones who use polling place distance to determine their vote method choice rather than their turnout decision.

In Table A.4 I show that the results are similar when using Manhattan distance instead of Euclidean distance. In Figure A.2, I show that the results show in Figure 3 in the main text are similar when using Manhattan distance.

Table A.4 – Effect of Polling Place Changes on General Election Turnout, Individual Level, 2008-2016.

		Voted	Voted a	t Polling Place	Voted C	Convenience
Sample	Full	Primary Voters	Full	Primary Voters	Full	Primary Voters
	(1)	(2)	(3)	(4)	(5)	(6)
PP Change	-0.009	-0.018	-0.011	-0.027	0.002	0.010
	(0.002)	(0.008)	(0.003)	(0.020)	(0.003)	(0.017)
PP Distance (Manhattan)	-0.002	-0.003	-0.007	-0.022	0.006	0.019
	(0.001)	(0.002)	(0.002)	(0.005)	(0.002)	(0.005)
N	8,533,250	1,608,055	8,533,250	1,608,055	8,533,250	1,608,055
# Voters	2,513,710	789,293	2,513,710	789,293	2,513,710	789,293
Election FEs	Yes	Yes	Yes	Yes	Yes	Yes
Voter FEs	Yes	Yes	Yes	Yes	Yes	Yes

Note: Robust standard errors clustered by precinct in parentheses. The outcome in Columns 1 and 2 is a whether an individual voted in the general election, the outcome in Columns 3 and 4 is whether an individual voted at her polling place in the general election, and the outcome in Columns 5 and 6 is whether an individual voted using convenience methods in the general election. The full sample includes all voters and the primary sample subsets to individuals who voted in the primary election in the present year. PP Change is a binary variable indicating whether an individual had her Election Day polling place location changed from the previous general election (or from the primary election for the primary sample). PP Distance is the individual's Manhattan distance from her Election Day polling place.

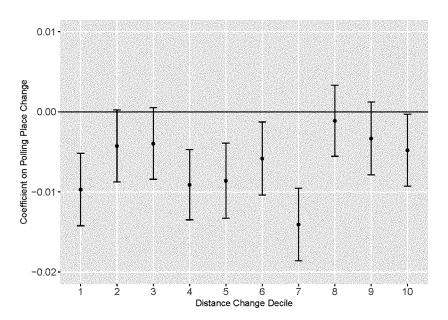


Figure A.2 – Effect of Polling Place Change Across Distance Change

This figure shows coefficient estimates of the effect of polling place changes on turnout across changes in polling place distance, using Manhattan distance to compute distance change deciles. The x-axis is the decile of the change in distance from one's polling place. Each point represents a coefficient estimate from the specification in Column 1 of Table A.4, but using only those within distance change decile as the treatment group. There appears to be no systematic relationship between change in polling place distance and the effect of polling place changes, suggesting that most of the effect can be attributed to search costs rather than transportations costs.

A.3 Validating the Parallel Trends Assumption

In this section I show a series of tests to validate the parallel trends assumption. I focus on the main analysis of the effect of polling place changes on turnout in general elections, as shown in Table 2.

Table A.5 – Validating the Parallel Trends Assumption for Turnout Analysis

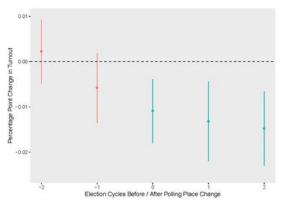
			Voted		
	(1)	(2)	(3)	(4)	(5)
PP Change	-0.011	-0.012	-0.009	-0.011	-0.011
	(0.002)	(0.002)	(0.002)	(0.002)	(0.002)
PP Change, $t + 1$	0.002				
	(0.003)				
N	12,663,312	12,673,951	12,626,296	12,673,951	12,420,356
# Voters	3,223,219	3,228,194	3,224,459	3,228,544	3,155,803
Voter FEs	Yes	Yes	Yes	Yes	Yes
Election FEs	Yes	No	No	No	No
County-Election FEs	No	Yes	No	No	No
County-Age-Election FEs	No	No	Yes	No	No
County-Party-Election FEs	No	No	No	Yes	No
County-Race-Election FEs	No	No	No	No	Yes

Note: Robust standard errors clustered by precinct in parentheses.

First, I include a lead of the polling place change variable, where it takes on a value of 1 if the individual will experience a polling place change in the next time period. A coefficient far from zero on the lead coefficient would suggest that there is pre-trending. In column 1 of Table A.5, the coefficient on main effect of polling place changes remains similar to the estimate in column 1 of Table 2, and the coefficient on the lead is substantively small and statistically indistinguishable from zero. This is preliminary evidence that the parallel trends assumption likely holds.

Second, I vary the fixed effects in a variety of ways to adjust the implied counterfactual time trends. In column 2 I include county-by-election fixed effects, which constructs counterfactual trends based on individuals living within the same county. In column 3 I include county-by-party-by-election fixed effects, which uses individuals within the same county and of the same political party as the counterfactual trend. Lastly, in column 4 I include county-by-race-by-election fixed effects, which uses individuals within the same county and of the race as the counterfactual trend. The estimates using these different fixed effects remain largely unchanged from that in column 1 of Table 2, which provides more evidence that the parallel trends assumption is satisfied.

Figure A.3 - Dynamic Effect of Polling Place Changes on Turnout



Note: In this analysis, I construct two leads of the polling place change variable, a switching indicator, and two lags of the polling place change variable. The two-period lead, for example, takes on a value of 1 if the individual is 2 election cycles away from having their polling place changed and zero otherwise.

Third, in Figure A.3 I include several leads and lags of polling place changes, modeling the dynamic effect of polling place changes on turnout (Autor 2003; Angrist and Pischke 2008). I construct two leads of the polling place change variable, a switching indicator, and two lags of the polling place change variable. The two-period lead, for example, takes on a value of 1 if the individual is 2 election cycles away from having their polling place changed and zero otherwise. As the plot shows, those whose polling places change become less likely to vote in general elections. This effect does not seem to manifest before the polling place change, helping to alleviate concerns about a violation of the parallel trends assumption.

A.4 Assembling the North Carolina Analysis Dataset

I use data from three different sources for the analysis. First, I collected lists of polling place addresses and their corresponding precincts from North Carolina County Boards of Elections for every primary and general election in North Carolina from 2006-2016. To date, I have full polling place lists from 35 counties. Although this does not introduce any obvious bias into the analysis, it would be important to know how specific the estimates are to the types of counties for which I could acquire data on polling place locations. Table A.6 shows a comparison of my sample to the full set of North Carolina counties. The counties with

polling place data are a bit more populous, partly driven by the inclusion of North Carolina's two biggest counties, Mecklenburg and Wake. On every other dimension my sample looks extremely similar to other North Carolina counties, so I suspect the result might generalize to other North Carolina counties.

Table A.6 - County Covariates (2010 Census)

Covariate	Mean (All Counties)	Mean (Counties with Data)
Total Population	95355	124928
Percent Age 20 to 29	0.135	0.140
Percent Age 30 to 44	0.204	0.213
Percent Age 45 to 59	0.207	0.204
Percent Age 60 to 74	0.130	0.120
Percent Age 75 and Up	0.056	0.052
Percent Female	0.513	0.513
Percent White	0.685	0.684
Percent Black	0.215	0.213
Percent Hispanic	0.084	0.090
Percent Asian	0.022	0.028
# Counties	100	35

Second, I use voter file information provided by the North Carolina State Board of Elections. This includes a current voter file as well as various voter file snapshots over the course of the study period. I use these voter files, which have each voter's assigned precinct, to merge them to their assigned polling place location in each election.³⁰ In order to avoid the possibility of voters changing addresses and selecting into the polling place change treatment, I limit the analysis only to registrants whose address did not change from the previous election period. These voter files also have useful individual-level information like voter registration address, turnout history, party registration, age, and race. Third, I use homeownership information from CoreLogic, a company that collects housing information from public records, to collect homeownership as an additional covariate.

The process for creating the final dataset is as follows. First, I merged North Carolina registrants to their voting history from the 2008 primary to the 2016 general election. The vote history file contains entries for each ballot cast in an election along with vote method,

³⁰While the ideal data would include voter file snapshots for each primary and general election in order to observe a voter's assigned precinct on Election Day, I only have snapshots for the following dates: October 20, 2006; November 4, 2008; January 1, 2010; January 1, 2011; May 8, 2012; November 6, 2012; May 6, 2014; November 4, 2014; March 15, 2016; and November 8, 2016. To merge voter precincts to their polling place addresses for each election, I use the precinct from the polling place snapshot closest to the date of

so any registrant-election observation that did not match to a vote history is coded as not having voted.

Second, I assembled a polling place list for every primary and general election from 2006-2016 using information provided by North Carolina County Boards of Elections. These polling place lists include the address of the polling place as well as each polling place's corresponding precinct. I merged the voter file to the polling place information based by precinct and year, creating a file where each registrant-election year has their vote history, registration address, assigned polling place address, and the demographic characteristics available in the voter file. I then generate the polling place change variable, coded simply as a 1 if the registrant's polling place for the previous election cycle is not the same as that registrant's polling place in the current election cycle.

Third, I create a distance metric for every voter's registration address to their assigned polling place. To do this, I use GIS geocoding software to generate the latitude and longitude of both a voter's registered address and the address of their polling place in each year. I calculate each voter's Euclidean (straight-line) distance to their polling place.

Next, I merge in homeowner information from property records data. The property records come from CoreLogic, and private data vendor that collects publicly available tax and deed records from each county in the United States. Each row in the CoreLogic data is a parcel. I have property information for each year from 2006 through 2016. From each of these CoreLogic history files, I keep all parcels defined as single-family residential, condominium, or duplex. Each row contains information on the owner's full name, parcel address and sale date. I merge each these CoreLogic files into the dataset on last name, first name, and zip code, and I construct an indicator for whether or not a registrant was a homeowner at any point between election periods. Finally, I merge in zip-code level data on the percent of the zip-code defined as urban by the US Census. The final dataset, therefore, has registrant-elections as the unit of observation, and it contains individual-level information on turnout, polling place change, polling place distance, age, race, homeownership, as well as zip-code level information on percent urban.

For precinct and zip code-level analyses, I simply collapse the individual-level dataset before merging in relevant information. In the case of the precinct-level vote share analysis, I collapse the dataset by precinct-year and merge in the Democratic two-party vote share for each precinct and election year using election returns from the North Carolina State Board of Elections. For the zip code-level analysis, I collapse the dataset by zip code-year – taking the mean of the polling place change indicator variable – and merge in the Federal Election Commission disbursements data for the North Carolina Democratic and Republican parties for each zip code and election year.

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A.5 Other Tables and Figures

 $\begin{tabular}{ll} Table A.7 - Descriptive Statistics, General Election Observations, Individual Level, North Carolina, 2008–2016. \end{tabular}$

	Mean	Deviation	Min	Max	N
	(1)	(2)	(3)	(4)	(5)
Democrat	0.417	0.493	0	1	13,315,719
Republican	0.319	0.466	0	1	13,315,719
Unaffiliated	0.263	0.441	0	1	13,315,719
Black	0.210	0.408	0	1	13,315,719
White	0.725	0.446	0	1	13,315,719
Other Non-White	0.043	0.204	0	1	13,315,719
Percent Urban	0.745	0.319	0	1	13,279,854
Homeowner	0.294	0.456	0	1	13,315,719
Age	48.023	17.485	18	99	13,203,263

Note: All covariates are measured at the individual level except percent urban, which is a zip-code level measure.

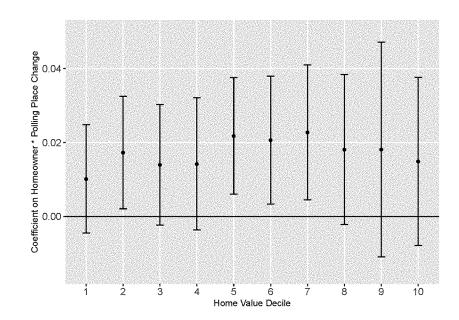


Figure A.4 – Difference in Effects of Polling Place Changes for Homeowners Versus Non-Homeowners, by Home Value

This figure shows coefficient estimates of the interaction term in Column 1 of Table 5 across home value deciles. The x-axis is the decile of home value among homeowners. The dotted line represents the coefficient estimate of the interaction term from the specification in Column 1 of Table 5. Each point represents a coefficient estimate from the specification in Column 1 of Table 5, but using only those within each home value decile. There appears to be no relationship between home value and the difference in effects of polling place changes for homeowners relative to non-homeowners. This provides suggestive evidence that homeowners are less sensitive to polling place changes compared to non-homeowners, regardless of wealth.

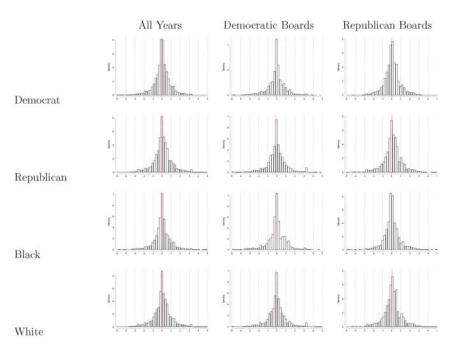


Figure A.5 – Change in Polling Place Distance (Miles)

Each figure shows the distribution of change in general election polling place distance for different subgroups of voters that experience polling place changes. The row indicates the subgroup of voters, and the column indicates the years. The first column includes all years (2008-2016), the second column includes only years where the partisan composition of county boards of elections were Democratic (2008-2012), and the third column includes only years where the partisan composition of county boards of elections were Republican (2014-2016).

Table A.8 – Effects of Polling Place Changes on General Election Turnout, Individual Level, 2008-2016.

	Voted	Absentee by	7 Mail	Voted Early in Person			
Sample	Full	Primary	General	Full	Primary	General	
	(1)	(2)	(3)	(4)	(5)	(6)	
PP Change	0.000	0.003	0.002	-0.002	0.008	0.006	
	(0.001)	(0.002)	(0.001)	(0.003)	(0.015)	(0.009)	
N	13,315,719	2,383,802	1,595,522	13,315,719	2,383,802	1,595,522	
# Voters	3,869,787	1,257,927	$1,\!100,\!761$	3,869,787	$1,\!257,\!927$	1,100,761	
Election FEs	Yes	Yes	Yes	Yes	Yes	Yes	
Voter FEs	Yes	Yes	Yes	Yes	Yes	Yes	

Note: Robust standard errors clustered by precinct in parentheses. The outcome in Columns 1-3 is a whether an individual voted absentee by mail in the general election, and the outcome in Columns 4-6 is whether an individual voted early in person in the general election. The full sample includes all voters, the primary sample subsets to individuals who voted in the primary election in the present year, and the general sample subsets to individuals who voted in the prior general election but not in the primary in the present year. PP Change is a binary variable indicating whether an individual had her Election Day polling place location changed from the previous general election (or from the primary election for the primary sample).

Table A.9 – Effects of Polling Place Changes on Primary Election Turnout, Individual Level, 2008-2016.

	Voted		Voted at Po	olling Place	Voted Co	onvenience
Sample	Full	General	Full	General	Full	General
-	(1)	(2)	(3)	(4)	(5)	(6)
PP Change	0.002	-0.014	-0.001	-0.016	0.003	0.003
	(0.004)	(0.008)	(0.003)	(0.008)	(0.002)	(0.002)
N	12,063,514	2,596,017	12,063,514	2,596,017	12,063,514	2,596,017
# Voters	3,650,894	1,416,549	3,650,894	1,416,549	3,650,894	1,416,549
Election FEs	Yes	Yes	Yes	Yes	Yes	Yes
Voter FEs	Yes	Yes	Yes	Yes	Yes	Yes

Note: Robust standard errors clustered by precinct in parentheses. The outcome in Columns 1 and 2 is a whether an individual voted in the primary election, the outcome in Columns 3 and 4 is whether an individual voted at her polling place in the primary election, and the outcome in Columns 5 and 6 is whether an individual voted using convenience methods in the primary election. The full sample includes all voters, and the general sample subsets to individuals who voted at their polling place in the prior general election. PP Change is a binary variable indicating whether an individual had her Election Day polling place location changed from the previous primary election (or from the previous general election for the general sample).

Table A.10 – Effects of Polling Place Changes on General Election Turnout by Democrat, Black, and Percent Urban; Individual Level, 2008-2016.

	Voted			Vote	Voted at Polling Place			ted Convenie	nce
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
PP Change	-0.011	-0.011	-0.016	-0.007	-0.009	-0.008	-0.004	-0.001	-0.008
	(0.002)	(0.002)	(0.005)	(0.003)	(0.003)	(0.006)	(0.004)	(0.004)	(0.007)
Dem	-0.036	, ,		-0.003		, ,	-0.033		
	(0.002)			(0.002)			(0.002)		
PP Change * Dem	-0.001			-0.007			0.006		
	(0.002)			(0.004)			(0.004)		
PP Change * Black		-0.005			-0.004			-0.000	
		(0.004)			(0.006)			(0.008)	
Pet Urban			-0.057			-0.027			-0.029
			(0.006)			(0.004)			(0.005)
PP Change * Pct Urban			0.006			-0.003			0.010
			(0.006)			(0.009)			(0.009)
N	13,315,719	13,315,719	13,279,854	13,315,719	13,315,719	13,279,854	13,315,719	13,315,719	13,279,854
# Voters	3,869,787	3,869,787	3,856,005	3,869,787	3,869,787	3,856,005	3,869,787	3,869,787	3,856,005
Election FEs	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Voter FEs	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Note: Robust standard errors clustered by precinct in parentheses. Main effect for Black absorbed by voter fixed effects. The outcome in Columns 1-3 is a whether an individual voted in the general election, the outcome in Columns 4-6 is whether an individual voted at her polling place Dem is an indicator for whether the individual is registered as a Democrat in the voter file. Black is an indicator for whether the individual's reported race is Black in the voter file. Pct Urban is a zip-code level measure of the proportion of the zip-code that is defined as an Urban Area by the US Census, which runs from 0 to 1.

767

POLLING PLACE NAME CHANGE

5449911_9223-IN3

Figure A.6 - Wake County Polling Place Name Change Insert

NBER WORKING PAPER SERIES

RACIAL DISPARITIES IN VOTING WAIT TIMES: EVIDENCE FROM SMARTPHONE DATA

M. Keith Chen Kareem Haggag Devin G. Pope Ryne Rohla

Working Paper 26487 http://www.nber.org/papers/w26487

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Racial Disparities in Voting Wait Times: Evidence from Smartphone Data M. Keith Chen, Kareem Haggag, Devin G. Pope, and Ryne Rohla NBER Working Paper No. 26487 November 2019, Revised October 2020 JEL No. D72

ABSTRACT

Equal access to voting is a core feature of democratic government. Using data from hundreds of thousands of smartphone users, we quantify a racial disparity in voting wait times across a nationwide sample of polling places during the 2016 U.S. presidential election. Relative to entirely-white neighborhoods, residents of entirely-black neighborhoods waited 29% longer to vote and were 74% more likely to spend more than 30 minutes at their polling place. This disparity holds when comparing predominantly white and black polling places within the same states and counties, and survives numerous robustness and placebo tests. We shed light on the mechanism for these results and discuss how geospatial data can be an effective tool to both measure and monitor these disparities going forward.

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Ryne Rohla Anderson School of Management 110 Westwood Plaza Los Angeles, CA 90095 ryne.rohla@anderson.ucla.edu Providing convenient and equal access to voting is a central component of democratic government. Among other important factors (e.g. barriers to registration, purges from voter rolls, travel times to polling places), long wait times on Election Day are a frequently discussed concern of voters. Long wait times have large opportunity costs (Stewart and Ansolabehere 2015), may lead to line abandonment by discouraged voters (Stein et al. 2019), and can undermine voters' confidence in the political process (Alvarez et al. 2008; Atkeson and Saunders 2007; Bowler et al. 2015). The topic of long wait times has reached the most prominent levels of media and policy attention, with President Obama discussing the issue in his 2012 election victory speech and appointing a presidential commission to investigate it. In their 2014 report, the Presidential Commission on Election Administration concluded that, "as a general rule, no voter should have to wait more than half an hour in order to have an opportunity to vote."

There have also been observations of worrying racial disparities in voter wait times. The Cooperative Congressional Election Study (CCES) finds that black voters report facing significantly longer lines than white voters (Pettigrew 2017; Alvarez et al. 2009; Stewart III 2013). While suggestive, the majority of prior work on racial disparities in wait times has been based on anecdotes and surveys which may face limits due to recall and reporting biases.

In this paper, we use geospatial data generated by smartphones to measure wait times during the 2016 election. For each cellphone user, the data contain "pings" based on the location of the cellphone throughout the day. These rich data allow us to document voter wait times across the entire country and also estimate how these wait times differ based on neighborhood racial composition.

We begin by restricting the set of smartphones to a sample that passes a series of filters to isolate likely voters. This leaves us with a sample of just over 150,000 smartphone users who voted at one of more than 40,000 polling locations across 46 different states. Specifically, these individuals entered and spent at least one minute within a 60-meter radius of a polling location on Election Day and recorded at least one ping within the convex hull of the polling place building (based on building footprint shapefiles). We eliminate individuals who entered the same 60-meter radius in the week leading up to or the week after Election Day to avoid non-voters who happen to work at or otherwise visit a polling place on non-election days.

We estimate that the median and average times spent at polling locations are 14 and 19 minutes, respectively, and 18% of individuals spent more than 30 minutes voting. We

¹The time measure that we estimate in our paper is a combination of wait time in addition to the time

provide descriptive data on how voting varies across the course of Election Day. As expected, voter volume is largest in the morning and in the evening, consistent with voting before and after the workday. We also find that average wait times are longest in the early morning hours of the day. Finally, as a validation of our approach, we show that people show up to the polls at times consistent with the opening and closing hours used in each state.

We next document geographic variation in average wait times using an empirical Bayes adjustment strategy. We find large differences across geographic units – for example, average wait times across congressional districts can vary by a factor of as much as four. We further validate our approach by merging in data from the CCES, which elicits a coarse measure of wait time from respondents. Despite many reasons for why one might discount the CCES measures (e.g. reporting bias and limited sample size), we find a remarkably high correlation with our own measures – a correlation of 0.86 in state-level averages and 0.73 in congressional-district-level averages. This concordance suggests that our wait time measures (and those elicited through the survey) have a high signal-to-noise ratio.

We next explore how wait times vary across areas with different racial compositions. We use Census data to characterize the racial composition of each polling place's corresponding Census block group (as a proxy for its catchment area). We find that the average wait time in a Census block group composed entirely of black residents is approximately 5 minutes longer than average wait time in a block group that has no black residents. We also find longer wait times for areas with a high concentration of Hispanic residents, though this disparity is not as large as the one found for black residents. These racial disparities persist after controlling for population, population density, poverty rates, and state fixed effects. We further decompose these effects into between- and within-county components, with the disparities remaining large even when including county fixed effects. We perform a myriad of robustness checks and placebo specifications and find that the racial disparity exists independent of the many assumptions and restrictions that we have put on the data.

In the Appendix, we consider the potential mechanisms behind the observed racial differences. We ultimately find that a host of plausible candidate explanations do little to explain the disparity in our cross-section, including differences in arrival times of voters, state laws (Voter ID and early voting), the partisan identity of the underlying population or the chief

it took to cast a ballot. We typically refer to this as just "wait time" in the paper. One may worry that the differences we find are not about wait times, but rather about differences in the amount of time spent casting a ballot. However, there is evidence to suggest this is not the case. For example, we find incredibly strong correlations between our wait time measures and survey responses that ask only about wait times as opposed to total voting time ("Approximately, how long did you have to wait in line to vote?").

election official, county characteristics (income inequality, segregation, social mobility), and the number of registered voters assigned to a polling place; although we do find larger disparities at higher-volume polling locations. Overall, our results on mechanism suggest that the racial disparities that we find are widespread and unlikely to be isolated to one specific source or phenomenon.

Our paper is related to work in political science that has examined determinants of wait times and also explored racial disparities. Some of the best work uses data from the CCES which provides a broad sample of survey responses on wait times (Pettigrew 2017; Alvarez et al. 2009; Stewart III 2013). For example, Pettigrew (2017) finds that black voters report waiting in line for twice as long as white voters and are three times more likely to wait for over 30 minutes to vote. Additional studies based on field observations may avoid issues that can arise from self-reported measures, but typically only cover small samples of polling places such as a single city or county (Highton 2006; Spencer and Markovits 2010; Herron and Smith 2016). Stein et al. (2019) collect the largest sample to date, using observers with stopwatches across a convenience sample of 528 polling locations in 19 states. Using a sample of 5,858 voters, they provide results from a regression of the number of people observed in line on an indicator that the polling place is in a majority-minority area. They find no significant effect - although they also control for arrival count in the regression. In a later regression, they find that being in a majority-minority polling location leads to a 12-second increase in the time it takes to check in to vote (although this regression includes a control for the number of poll workers per voter which may be a mechanism for racial disparities in voting times). Overall, we arrive at qualitatively similar results as the political science literature, but do so using much more comprehensive data that avoids the pitfalls of self-reports. Going forward, this approach could produce repeated measures across elections, which would facilitate a richer examination of the causal determinants of the disparities.

Our paper also relates to the broader literature on racial discrimination against black individuals and neighborhoods (for reviews, see Altonji and Blank 1999, Charles and Guryan 2011, and Bertrand and Duflo 2017), including by government officials. For example, Butler and Broockman (2011) find that legislators were less likely to respond to email requests from a putatively black name, even when the email signaled shared partisanship in an attempt to rule out strategic motives. Similarly, White et al. (2015) find that election officials in the U.S. were less likely to respond and provided lower-quality responses to emails sent from constituents with putatively Latino names. Racial bias has also been documented for public officials that are not part of the election process. For example, Giulietti et al. (2019) find

that emails sent to local school districts and libraries asking for information were less likely to receive a response when signed with a putatively black name relative to a putatively white name. As one final example, several studies have documented racial bias by judges in criminal sentencing (Alesina and Ferrara 2014; Glaeser and Sacerdote 2003; Abrams et al. 2012).

1 Data

The three primary datasets we use in this paper include: (1) SafeGraph cell phone location records, (2) Polling locations, and (3) Census demographics.

We use anonymized location data for smartphones provided by SafeGraph, a firm that aggregates location data across a number of smartphone applications (Chen and Rohla 2018). These data cover the days between November 1st and 15th, 2016, and consist of "pings", which record a phone's location at a series of points in time. In general, GPS pings are typically accurate to within about a 5-meter radius under open sky, though this varies depending on factors such as weather, obstructions, and satellite positioning (GPS.gov). Pings are recorded anytime an application on a phone requests information about the phone's location. Depending on the application (e.g. a navigation or weather app), pings may be produced when the application is being used or at regular intervals when it is in the background. The median time between pings in our sample for a given device is 48 seconds (with a mode of 5 minutes).

The geolocation data used in this paper is detailed and expansive, allowing us to estimate wait times around the entire United States. This data, however, naturally raises concerns about representativeness. If we were trying to estimate individual choices, e.g. vote choice, the sample could only produce estimates that are at best representative of the approximately 77% of U.S. adults who owned a smartphone in 2016. While Chen and Pope (2019) show that the data are generally representative of the U.S. along several observable dimensions (with the exception of skewing more wealthy), they may differ on unobservables. However, our goal is to estimate a property of places rather than individuals. That is, we estimate an outcome of queues that have multiple individuals in them. While the restriction to smartphone users may limit the number of wait times we observe, as long as there is a queueing rule at polling places, we should still observe an unbiased estimate of the wait times faced by voters, both those with and without smartphones.²

²This is not to dismiss the potential issue of missing polling places or times of day. However, a priori,

Polling place addresses for the 2016 General Election were collected by contacting state and county election authorities. When not available, locations were sourced from local newspapers, public notices, and state voter registration look-up webpages. State election authorities provided statewide locations for 32 states, five of which required supplemental county-level information to complete. Four states were completely collected on a county-by-county basis. In twelve states, not all county election authorities responded to inquiries (e.g. Nassau County, New York).

When complete addresses were provided, the polling locations were geocoded to coordinates using the Google Maps API. When partial or informal addresses were provided, buildings were manually assigned coordinates by identifying buildings through Google Street View, imagery, or local tax assessor maps as available. Additionally, Google Maps API geocodes are less accurate or incomplete in rural locations or areas of very recent development, and approximately 8% of Google geocodes were manually updated.

Of the 116,990 national polling places reported in 2016 by the U.S. Election Assistance Commission, 93,658 polling places (80.1%) were identified and geocoded and comprise the initial sample of polling places in this paper. Appendix Figure A.1 illustrates the location of the 93,658 polling places and separately identifies polling places for which we identify likely voters on Election Day and pass various filters that we discuss and impose below.

Demographic characteristics were obtained by matching each polling place location to the census block group in the 2017 American Community Survey's five-year estimates. Census block groups were chosen as the level of aggregation because the number of block groups is the census geography that most closely aligns with the number of polling places and because it contains the information of interest (racial characteristics, fraction below poverty line, population, and population density).

2 Methods

In order to calculate voting wait times, we need to identify a set of individuals we are reasonably confident actually voted at a polling place in the 2016 election. To do so, we restrict the sample to phones that record a ping within a certain distance of a polling station on Election Day. This distance is governed by a trade-off – we want the radius of the circle around each polling station to be large enough to capture voters waiting in lines that may spill out of the polling place, but want the circle to be not so large that we introduce a

these omissions do not point to systematic bias in a particular direction.

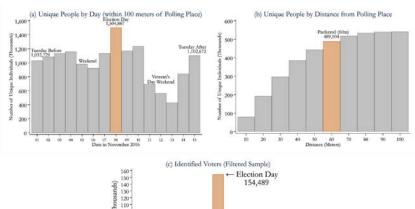
significant number of false positive voters (people who came near a polling place, but did not actually vote).

We take a data-driven approach to determine the optimal size of the radius. In Panel A of Figure 1, we examine whether there are more unique individuals who show up near a polling place on Election Day relative to the week before and the week after the election (using a 100-meter radius around a polling location).³ As can be seen, there appear to be more than 400k additional people on Election Day who come within 100 meters of a polling place relative to the weekdays before and after. In Panel B of Figure 1, we plot the difference in the number of people who show up within a particular radius of the polling place (10 meters to 100 meters) on Election Day relative to the average across all other days. As we increase the size of the radius, we are able to identify more and more potential voters, but also start picking up more and more false positives. By around 60 meters, we are no longer identifying very many additional people on Election Day relative to non-election days, and yet are continuing to pick up false positives. Therefore, we choose 60 meters as the radius for our primary analysis. However, in Section 4.1, we demonstrate robustness of estimates to choosing alternative radii.

For each individual that comes within a 60-meter radius of a polling place, we would like to know the amount of time spent within that radius. Given that we do not receive location information for cell phones continuously (the modal time between pings is 5 minutes), we cannot obtain an exact length of time. Thus, we create upper and lower bounds for the amount of time spent voting by measuring the time between the last ping before entering and the first ping after exiting a polling-place circle (for an upper bound), and the first and last pings within the circle (for a lower bound). For example, pings may indicate a smartphone user was not at a polling location at 8:20am, but then was at the polling location at 8:23, 8:28, 8:29, and 8:37, followed by a ping outside of the polling area at 8:40am; translating to a lower bound of 14 minutes and an upper bound of 20 minutes. We use the midpoint of these bounds as our best guess of a voter's time at a polling place (e.g. 17 minutes in the aforementioned example). In the robustness section, we estimate our effects using values other than the midpoint.

³More precisely, we construct a 100-meter radius around the centroid of the building identified by Microsoft OpenStreetMap as the closest to the polling place coordinates.

Figure 1: Defining the Radius



Notes: Panel A plots the number of unique device IDs observed within 100 meters of polling place building centroids on each day from November 1 to November 15 – Election Day (November 8) is highlighted in orange. Panel B plots the difference in the number of unique devices that are within a particular radius of the polling place (10 meters to 100 meters) on Election Day relative to the average across all other days – our final radius of 60 meters is highlighted in orange. Panel C shows the sample of unique devices that are observed within 60 meters of a polling place building centroid after applying the full set of filters – Election Day is highlighted in orange. Note that the Y-axes change across subfigures and that Veteran's Day was on Friday, November 11 in 2016. The initial sample of smartphones that recorded at least one ping on Election Day(November 8, 2016) consisted of 5.2 million unique devices. As Panel A shows, there are 1.5 million devices once we limit to those that recorded at least one ping within 100 meters of a polling place on that date. Limiting to those within 60 meters of a polling place (the final radius used in Panel C) drops this to 1.0 million devices. Further limiting to phones that recorded at least one ping in the convex hull of the polling place building drops this to 406k devices, and limiting to phones that recorded a consistent set of pings on Election Day (1 per hour for 12 hours) drops to 307k devices. Imposing the remaining filters discussed in the text drops to the final sample of 155k observed in the orange bar of Panel C.

Another important step in measuring voting times from pings is to isolate people who come within a 60-meter radius of a polling place that we think are likely voters and not simply passing by or people who live or work at a polling location. To avoid including passersby, we restrict the sample to individuals who had an upper bound measure of at least one minute within a polling place circle and for whom that is true at only one polling place on Election Day. To avoid including people who live or work at the polling location, we

exclude individuals who we observe spending time (an upper bound greater than 1 minute) at that location in the week before or the week after Election Day. To further help identify actual voters and reduce both noise and false positives, we restrict the sample to individuals who had at least one ping within the convex hull of the polling place building on Election Day (using Microsoft OpenStreetMap building footprint shapefiles), logged a consistent set of pings on Election Day (posting at least 1 ping every hour for 12 hours), and spent no more than 2 hours at the polling location (to eliminate, for example, poll workers who spend all day at a polling place). In Section 4.1, we provide evidence of robustness to these various sample restrictions.

After these data restrictions, our final sample consists of 154,489 individuals whom we identify as likely voters across 43,413 polling locations. Panel C in Figure 1 shows how many people pass our likely-voter filters on Election Day (154,489), and—as a placebo analysis—how many observations we would have on non-Election ("placebo") days before and after the 2016 Election that would pass these same filters (modified to be centered around those placebo days). This analysis suggests that more than 87% of our sample are likely voters who would not have been picked up on days other than Election Day. In Appendix Figure A.2, we plot the distribution of wait times on each of these placebo non-election days. We find that the wait times of people who would show up in our analysis on non-election days are shorter on average than those that show up on Election Day. Thus, to the degree that we can not completely eliminate false positives in our voter sample, we expect our overall voter wait times to be biased upward. We also would expect the noise introduced by non-voters to bias us towards not finding systematic disparities in wait times by race.

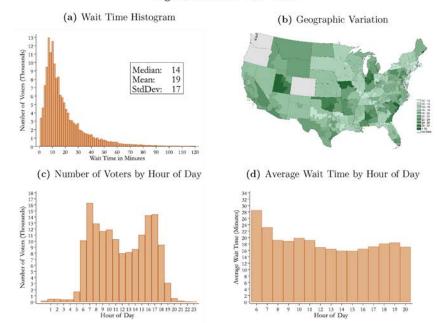
Appendix Table A.1 provides summary statistics for our 154,489 likely voters. We find average voting wait times of just over 19 minutes when using our primary wait time measure (the midpoint between the lower and upper bound) and 18% of our sample waited more than 30 minutes to vote. Weighted by the number of voters in our sample, the racial composition of the polling place block groups is, on average, 70% white and 11% black.

3 Results: Overall Voter Wait Times

We plot the distribution of wait times in Panel A of Figure 2. The median and average times spent at polling locations are 14 and 19 minutes, respectively, and 18% of individuals spent more than 30 minutes voting. As the figure illustrates, there is a non-negligible number of individuals who spent 1-5 minutes in the polling location (less time than one might imagine

is needed to cast a ballot). These observations might be voters who abandoned after discovering a long wait time. Alternatively, they may be individuals who pass our screening as likely voters, but were not actually voting.

Figure 2: Overall Wait Times



Notes: Panel A plots a histogram corresponding to the 154,495 cell phones who pass the filters used to identify likely voters (using 1.5 minute bins). Panel B shows variation in (empirical-Bayes-adjusted) average wait times by congressional district (115th Congress). Panel C plots the total number of voters (volume) by hour of arrival. Panel D plots the average wait time for each hour of arrival.

We next display the number of people who arrive to vote at the polling locations by time of day. This descriptive analysis of when people vote may be of interest in and of itself, but it also serves as a validation of whether people in our sample are indeed likely voters (e.g. if our sample consists primarily of people showing up at the polling locations at 3am, then one should worry about whether our sample is primarily composed of voters). Panel C of

Figure 2 shows the distribution of arrival times where the "hour of day" is defined using the "hour of arrival" for a given wait time (i.e. the earliest ping within the polling place radius for a given wait time spell). As expected, people are most likely to vote early in the morning or later in the evening (e.g. before or after work) with nearly twice as many people voting between 7 and 8am as between noon and 1pm. As a consistency check, Appendix Figure A.3 repeats this figure separately by state's opening and closing times – the figures show that likely-voter arrivals match state-by-state poll opening and closing times. Finally, Panel D of Figure 2 plots the average wait time by time of arrival, showing that the longest averages are early in the morning.

In addition to temporal variation in wait times, we can also explore how voting wait times vary geographically. Appendix Tables C.1 - C.3 report average wait times by state, congressional district, and the 100 most populous counties, along with accompanying standard deviations and observation counts, as well as an empirical-Bayes adjustment to account for measurement error. Focusing on the empirical-Bayes adjusted estimates, the states with the longest average wait times are Utah and Indiana (28 and 27 minutes, respectively) and the states with the shortest average wait time are Delaware and Massachusetts (12 minutes each). In Panel B of Figure 2 we map the empirical-Bayes-adjusted average voting wait time for each congressional district across the United States. Average wait times vary from as low as ~ 11 minutes in Massachusetts's Sixth and Connecticut's First Congressional District to as high as ~ 40 minutes in Missouri's Fifth Congressional District. These geographic differences are not simply a result of a noisy measure, but contain actual signal value regarding which areas have longer wait time than others. Evidence for this can be seen by our next analysis correlating our wait time measures with those from a survey.

We correlate our average wait time measures at both the state and congressional district level with the average wait times reported by respondents in the the 2016 wave of the Cooperative Congressional Election Study (Ansolabehere and Schaffner, 2017). The 2016 CCES is a large national online survey of 64,600 people conducted before and after the U.S.

⁴Even if all states in the U.S. had the same voter wait time, we would find some dispersion in our measure due to sampling variation. Due to sample size, this measurement error in our estimates would result in the smallest states being the most likely to show evidence of having either very short or very long wait times. Thus, throughout the paper, whenever we discuss voter wait times or racial disparities that have been aggregated up to either the county, congressional district, or state level, we will report estimates that have been adjusted for measurement using a Bayesian shrinkage procedure. This iterative procedure (discussed in detail in Chandra et al. (2016)) shrinks estimates toward the average of the true underlying distribution. The amount of adjustment toward the mean is a function of how far the estimate for each state/county is from the mean and the estimate's precision. The resulting adjusted estimate is our "best guess" (using Bayesian logic) as to what the actual wait time or disparity is for each geographic unit.

general election. The sample is meant to be representative of the U.S. as a whole.⁵ There are several reasons one might be pessimistic that the wait time estimates that we generate using smartphone-data would correlate closely with the wait times reported from the CCES survey. First, given sample sizes at the state and congressional district level, both our wait times and survey wait times may have a fair bit of sampling noise. Second, our wait time measures are a combination of waiting in line and casting a ballot, whereas the survey only asks about wait times. Third, the question in the survey creates additional noise by eliciting wait times that correspond to one of five coarse response options ("not at all", "less than 10 minutes", "10 to 30 minutes", "31 minutes to an hour", and "more than an hour"). Lastly, the survey does not necessarily represent truthful reporting. For example, while turnout in the U.S. has hovered between 50 and 60 percent, more than 80% of CCES respondents report voting. Given these reasons for why our wait time results may not correlate well with those from the survey, we find a remarkably strong correlation between the two. Using empirical-Bayesadjusted estimates for both state-level wait time estimates from the cellphone data and those found in the CCES, we find correlation of 0.86 between the two. We find a similarly strong correlation at the congressional district level (correlation = 0.73). Our wait-time estimates are, on average, slightly longer than those in the survey, which is likely a reflection of the fact that our measure includes both wait time and ballot-casting time. Scatter plots of the state and congressional district estimates may be found in Appendix Figure A.4. Overall, the strong correlations between the wait times we estimate and those from the CCES survey provide validation for our wait time measure (and for the CCES responses themselves).

4 Results: Racial Disparities in Wait Times

In this section, we provide evidence that wait times are significantly longer for areas with more black residents relative to white residents. We begin with a simple visualization of wait times by race. Figure 3 plots the smoothed distribution of wait times separately for polling places in the top and bottom deciles of the fraction-black distribution. These deciles

⁵https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi%3A10.7910/DVN/GDF6Z0

⁶There are 34,353 responses to the "wait time" question in the 2016 CCES. We restrict the sample of responses to just use individuals who voted in person on Election Day (24,378 individuals after dropping the 45 who report "Don't Know"). Following Pettigrew (2017), we translate the responses to minute values by using the midpoints of response categories: 0 minutes ("not at all"), 5 minutes ("less than 10 minutes"), 20 minutes ("10 to 30 minutes") or 45 minutes ("31 minutes to an hour"). For the 421 individuals who responded as "more than an hour" we code them as waiting 90 minutes (by contrast, Pettigrew (2017) uses their open follow-up text responses.)

average 58% and 0% black, respectively. Voters from areas in the top decile spent 19% more time at their polling locations than those in the bottom decile. Further, voters from the top decile were 49% more likely to spend over 30 minutes at their polling locations. Appendix Figures A.5 and A.6 provide similar density functions of wait-time comparisons for other demographic characteristics.

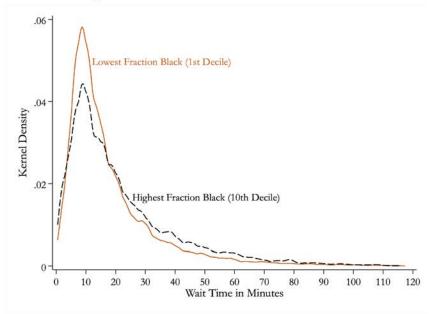


Figure 3: Wait Time: Fraction Black 1st vs. 10th Decile

Notes: Kernel densities are estimated using 1 minute half-widths. The 1st decile corresponds to the 34,420 voters across 10,319 polling places with the lowest percent of black residents (mean =0%). The 10th decile corresponds to the 15,439 voters across the 5,262 polling places with the highest percent of black residents (mean =58%).

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Table 1: Fraction Black and Voter Wait Time

Table 1: Fraction Black and Voter Wait Time									
	(1)	(2)	(3)	(4)	(5)				
Panel A: Ordinary Least	Squares	s(Y = W)	Vait Time)						
Fraction Black	5.23***	5.22***	4.96***	4.84***	3.27***				
	(0.39)	(0.39)	(0.42)	(0.42)	(0.45)				
Fraction Asian		-0.79	-2.48***	1.30*	-1.10				
		(0.72)	(0.74)	(0.76)	(0.81)				
Fraction Hispanic		1.15***	0.43	3.90***	1.50***				
		(0.37)	(0.40)	(0.46)	(0.50)				
Fraction Other Non-White		12.01***	11.76***	1.66	2.04				
		(1.94)	(1.95)	(1.89)	(1.93)				
N	154,411	154,411	154,260	154,260	154,260				
R^2	0.00	0.00	0.01	0.06	0.13				
DepVarMean	19.13	19.13	19.12	19.12	19.12				
Polling Area Controls?	No	No	Yes	Yes	Yes				
State FE?	No	No	No	Yes	Yes				
County FE?	No	No	No	No	Yes				
Panel B: Linear Probabi	lity Mod	lel (Y =	Wait Tim	$\mathrm{e} > 30\mathrm{min})$					
Fraction Black	0.12***	0.12***	0.11***	0.10***	0.07***				
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)				
Fraction Asian		-0.00	-0.04**	0.04**	-0.02				
		(0.02)	(0.02)	(0.02)	(0.02)				
Fraction Hispanic		0.03***	0.01	0.08***	0.03***				
		(0.01)	(0.01)	(0.01)	(0.01)				
Fraction Other Non-White		0.21***	0.21***	0.03	0.05				
		(0.04)	(0.04)	(0.04)	(0.04)				
N	154,411	154,411	154,260	154,260	154,260				
R^2	0.00	0.00	0.01	0.04	0.10				
DepVarMean	0.18	0.18	0.18	0.18	0.18				
Polling Area Controls?	No	No	Yes	Yes	Yes				
State FE?	No	No	No	Yes	Yes				
County FE?	No	No	No	No	Yes				

^{*} p < 0.10, ** p < 0.05, *** p < 0.01

Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day. DepVarMean is the mean of the dependent variable. The dependent variable in Panel B is a binary variable equal to 1 if the wait time is greater than 30 minutes. Polling Area Controls includes the population, population per square mile, and fraction below poverty line for the block group of the polling station. "Asian" includes "Pacific Islander." "Other Non-White" includes the "Other," "Native American," and "Multiracial" Census race categories.

Of course, Figure 3 focuses just on polling places that are at the extremes of racial makeup. We provide a regression analysis in Table 1 in order to use all of the variation across polling places' racial compositions and to provide exact estimates and standard errors. Panel A uses wait time as the dependent variable. In column 1, we estimate the bivariate regression which shows that moving from a census block group with no black residents to one that is entirely composed of black residents is associated with a 5.23 minute longer wait time. In column 2, we broaden our focus by adding additional racial categories, revealing longer wait times for block groups with higher fractions of Hispanic and other non-white groups (Native American, other, multiracial) relative to entirely white neighborhoods. Column 3 examines whether these associations are robust to controlling for population, population density, and fraction below poverty line of the block group (see Appendix Tables A.2 and A.3 for the full set of omitted coefficients). The coefficient on fraction black is stable when adding in these additional covariates. Column 4 adds state fixed effects and the coefficient on fraction black only slightly decreases, suggesting that racial disparities in voting wait times are just as strong within state as they are between state.

In column 5, we present the results within county. We find that the disparity is mitigated, but it continues to be large and statistically significant. This suggests that there are racial disparities occurring both within and between county. Understanding the level at which discrimination occurs (state, county, within-county, etc.) is helpful when thinking about the mechanism. Further, the fact that we find evidence of racial disparities within county allows us to rule out what one may consider spurious explanations such as differences in ballot length between counties that could create backlogs at other points of service (Pettigrew 2017; Edelstein and Edelstein 2010; Gross et al. 2013).

Panel B of Table 1 is analogous to Panel A, but changes the outcome to a binary variable indicating a wait time longer than 30 minutes. We choose a threshold of 30 minutes as this was the standard used by the Presidential Commission on Election Administration in their 2014 report, which concluded that, "as a general rule, no voter should have to wait more than half an hour in order to have an opportunity to vote" (Bauer et al. 2014). We find that entirely black areas are 12 percentage points more likely to wait more than 30 minutes than entirely white areas, a 74% increase in that likelihood. This remains at 10 percentage points with polling-area controls and 7 percentage points within county.

4.1 Robustness

We have made several data restrictions and assumptions throughout the analysis. In this section, we document the robustness of the racial disparity estimate to using alternative restrictions and assumptions.

In our primary analysis we use the midpoint between the lower and upper bound of time spent near the polling location as the primary measure of wait time. In Panel A of Figure 4, we vary the wait time measure from the lower bound to the upper bound in 10 percent increments, finding that it has little impact on the significance or magnitude of our estimates. We further vary the wait time trimming thresholds in Panel B and the radius around a building centroid used to identify the polling location in Panel C. While these do move the average wait times around, and the corresponding differences, we find that the difference remains significant even across fairly implausible adjustments (e.g. a tight radius of 20 meters around a polling place centroid). We show the associated regression output for this figure in Appendix Table A.4.

Another set of assumptions was in limiting the sample to individuals who (a) spent at least one minute at a polling place, (b) did so at only one polling place on Election Day, and (c) did not spend more than one minute at that polling location in the week before or the week after Election Day. As a robustness check, we make (c) stricter by dropping anyone who visited any other polling place on any day in the week before or after Election Day, e.g. we would thus exclude a person who only visited a school polling place on Election Day, but who visited a church (that later serves a polling place) on the prior Sunday. This drops our primary analysis sample from 154,489 voters down to 68,812 voters, but arguably does a better job of eliminating false positives. In Appendix Table A.5 and Appendix Figure A.7 we replicate our primary analysis using this more restricted sample and find results that are very similar to our preferred estimates.

As a placebo check, we perform our primary regression analysis using the same sample construction methods on the non-Election days leading up to and after the actual Election Day. Specifically, we repeat the regression used in Table 2, Panel A, Column 1 for each of these days. Appendix Figure A.8 shows the coefficients for each date. We find that none of these alternative dates produces a positive coefficient, suggesting that our approach likely identifies a lower bound on the racial gap in wait times.

As a final robustness/validation, we correlate the racial disparities in wait times that we identify using the smartphone data with the racial disparities in wait times found using the CCES survey (discussed in the previous section). As we found when correlating our overall

wait time measure with the CCES, there is a strong correlation at the state level (0.72). The correlation at the congressional district level is much more modest (0.07).

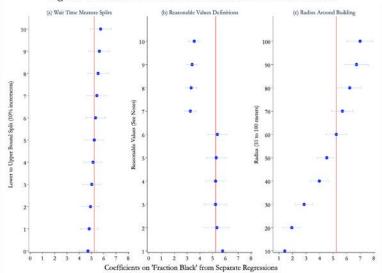


Figure 4: Robustness to Different Data Construction Choices

Notes: Points correspond to coefficients on "Fraction Black" from separate regressions (+/- 1.96 robust standard errors, clustered at the polling place level). Unit of observation is a cellphone identifier on Election Day. All specifications are of the form used in Column 1 of Panel A, Table 1. Panel A varies the dependent variable across splits between the lower and upper bounds for our wait time measure (as described in Data and Methods); the first point (y = 0) corresponds to the lower bound, the last point (y = 10) corresponds to the upper bound measures, and all other points are intermediate deciles of the split (e.g., y = 5 corresponds to the midpoint of the two measures). Panel B varies the "reasonable values" (RV) filter, as follows: [RV1] Upper Bound under 5 hours (N = 159,046; Mean of Dependent Variable = 22.92) [RV2] Upper Bound under 4 hours (N = 158,167; Mean = 21.79) [RV3] Upper Bound under 3 hours (N = 154,937; Mean = 20.63) [RV4] Upper Bound under 2 hours (N = 154,411; Mean = 19.13) [RV5] Upper Bound under 2 hours and over 2 minutes (N = 154,433; Mean = 19.24) [RV7] Upper Bound under 1 hour and over 2 minutes (N = 140,470; Mean = 15.71) [RV6] Upper Bound under 1 hour and over 3 minutes (N = 138,452; Mean = 15.74) [RV9] Upper Bound under 1 hour and over 3 minutes (N = 138,452; Mean = 15.91). Panel C varies the bounding radius around the polling station centroid from 10 meters (N = 60,821; Mean = 12.09) up to 100 meters (N = 113,797; Mean = 21.81). The red line on each figure corresponds to the coefficient from the choice we use in our primary analysis, i.e. the midpoint wait time measure (Panel A), a filter of upper bounds under 2 hours (Panel B), and a radius of 60 meters (Panel C).

5 Discussion and Conclusion

Exploiting a large geospatial dataset, we provide new, nationwide estimates for the wait times of voters during the 2016 U.S. presidential election. In addition to describing wait times overall, we document a persistent racial disparity in voting wait times: areas with a higher proportion of black (and to a lesser extent Hispanic) residents are more likely to face long wait times than areas that are predominantly white. These effects survive a host of robustness and placebo tests and are also validated by being strongly correlated with survey data on voter wait times.

While the primary contribution of our paper is to carefully document voting wait times and disparities at the national level, it is natural to ask why these disparities exist. In the Appendix, we explore the mechanism and do not find conclusive evidence in favor of arrival bunching, partisan bias, early voting, or strict ID laws. We find suggestive evidence that the effects could be driven by fewer resources that leads to congestion especially in high-volume polling places. We are left with the fact that these racial disparities are not limited to just a few states or areas with particular laws or party affiliations that might reflect strategic motivations. Rather, there is work to be done in a diverse set of areas to correct these inequities. A simple explanation is that government officials in general tend to focus more attention on areas with white constituents at the expense of those with black constituents. For example, this could be due to politicians being more responsive to white voters' complaints about voting administration than those from black voters (and relatedly, white voters lodging more complaints), in line with prior work demonstrating lower responsiveness to black constituents across a variety of policy dimensions (e.g. Butler and Broockman 2011; Giulietti et al. 2019; White et al. 2015).

Our results also demonstrate that smartphone data may be a relatively cheap and effective way to monitor and measure progress in both overall wait times and racial disparities in wait times across various geographic areas. The analysis that we conduct in this paper can be easily replicated after the 2020 election and thereby generate a panel dataset of wait times across areas. Creating a panel dataset across the country may be useful to help pin down the mechanism for disparities (e.g. using difference-in-differences designs to test if disparities in voter wait times change when different laws or election officials take over in a state). We hope that future work can build on the results in this paper to provide a deeper understanding of disparities in voting wait times and their causes.

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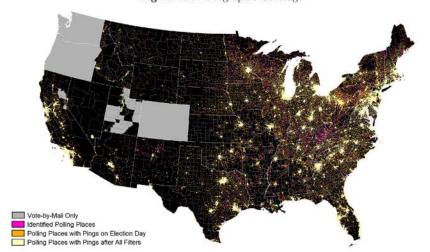
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Appendix A: Figures and Tables

 ${\bf Figure~A.1:}~{\bf Geographic~Coverage}$



Notes : This figure shows polling place locations (overlaid on county shapes) colored by whether smartphone pings were observed.

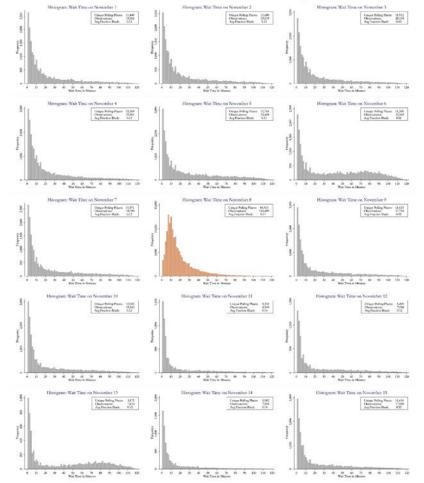


Figure A.2: Placebo Day Wait Time Histograms

Notes: In this figure, we replicate our sample construction across 14 placebo days (i.e. we apply our filters to identifying a "likely voter" but replace the sample and the date used in each filter definition to the placebo date). The figure corresponding to Election Day (i.e. Figure 2 of the paper) is also shown, highlighted in orange. The figure illustrates that our filters identify a plausible distribution of wait times on Election Day, but that applying the same set of filters (with dates shifted accordingly) produces a very different distribution shape on other dates. Note that the Y-axes change across sub-figures.

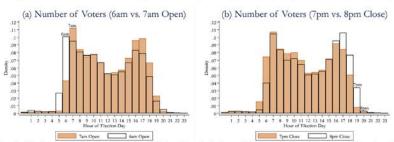
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Table A.1: Summary Statistics for Voter Wait Time Measures

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	N	Mean	SD	Min	p10	Median	p90	Max
Wait Time Measures								
Primary Wait Time Measure (Midpoint)	154,489	19.13	16.89	0.51	5.02	13.57	40.83	119.50
Lower Bound Wait Time Measure	154,489	11.26	16.19	0.00	0.00	5.52	30.62	119.08
Upper Bound Wait Time Measure	154,489	27.00	20.33	1.02	9.28	20.30	54.52	119.98
Wait Time Is Over 30min	154,489	0.18	0.38	0.00	0.00	0.00	1.00	1.00
Race Fractions in Polling Area								
Fraction White	154,411	0.70	0.26	0.00	0.27	0.79	0.96	1.00
Fraction Black	154,411	0.11	0.18	0.00	0.00	0.03	0.31	1.00
Fraction Asian	154,411	0.05	0.09	0.00	0.00	0.02	0.14	0.96
Fraction Hispanic	154,411	0.11	0.17	0.00	0.00	0.05	0.31	1.00
Fraction Other Non-White	154,411	0.03	0.04	0.00	0.00	0.02	0.07	0.99
Other Demographics								
Fraction Below Poverty Line	154,260	0.11	0.12	0.00	0.01	0.07	0.26	1.00
Population (1000s)	154,489	2.12	1.87	0.00	0.84	1.71	3.56	51.87
Population Per Sq Mile (1000s)	154,489	3.81	9.44	0.00	0.20	1.99	7.04	338.94

Notes: Race fractions and other demographics are defined at the Census block group of the associated polling place. These demographics correspond to the 2017 American Community Survey's five-year estimates.

Figure A.3: Voter Volume by Hour of Day (Early vs. Late Open and Close States)



Notes: In this figure, we use state poll opening and close times to further validate our filters as identifying likely voters. Panel A separately plots the histogram for the 10 states where polls open at 6am and the 22 that open at 7am; Panel B plots the histograms for the 17 states that close at 7pm versus the 18 states that close at 8pm. We see relative spikes at 7am for the states that open at 7am (orange histogram), and that the number of voters falls substantially at 7pm for states that close at 7pm (orange histogram), [State open and close times are taken from: https://ballotpedia.org/State_Poll_Opening_and_Closing_Times_(2016)#table. We omit states which do not have standardized open (Panel A) or close times (Panel B) across the entire state.]

(a) State Estimates

(b) Congressional District Estimates

(c) Congressional District Estimates

(b) Congressional District Estimates

(c) Congressional District Estimates

(d) Congressional District Estimates

(e) Congressional District Estimates

(f) Congressional District Estimates

(g) Congres

Figure A.4: Comparison with CCES Data

Notes: The red line corresponds to the 45 degree line (lining up would indicate equality between the two measures). The gray line is produced with 1fit in Stata, giving the prediction of the Smartphone measure given the CCES measure. Both measures are first independently empirical-Bayes-adjusted to account for measurement error.

(a) Hispanic (b) Asian

Lowest Praction Hispanic (Int Decid)

Highest Fraction Hispanic (Int Decid)

Highest Fraction Chier Non-White (Int Decid)

Lowest Praction Admin (Int Decid)

Highest Fraction Admin (Int Decid)

Lowest Praction Admin (Int Decid)

Highest Fraction Admin (Int Decid)

Lowest Praction Admin (Int Decid)

Highest Fraction Admin (Int Decid)

Lowest Praction Admin (Int Decid)

Highest Fraction Admin (Int Decid)

Highest Fraction All Non-White

(c) Other Non-White

(d) All Non-White

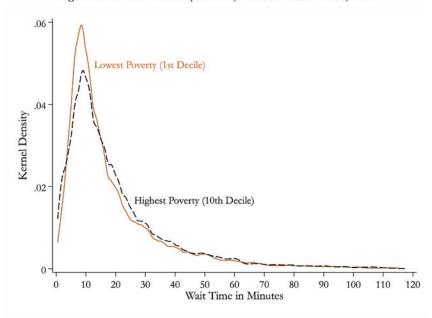
Highest Fraction Chier Non-White (Int Decid)

Highest Fraction All Non-White (Int Decid)

Figure A.5: Wait Time Disparities by Racial Categories

Notes: This figure repeats Figure 3 across other racial categories. We show the decile splits by Hispanic (Panel A), Asian (Panel B), and "Other Non-White" (Panel C), and then group these categories together with Black in Panel D. Note that "Asian" includes "Pacific Islander." "Other Non-White" includes the "Other," "Native American," and "Multiracial" Census race categories. "All Non-White" includes Black, Hispanic, Asian, and Other Non-White.

Figure A.6: Wait Time Disparities by Fraction Below Poverty Line



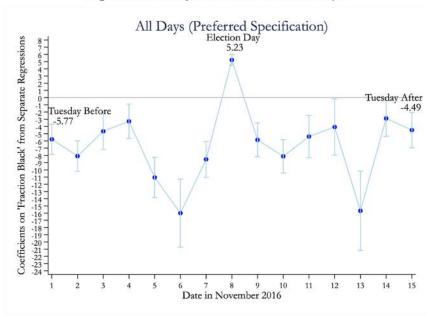
 $\textbf{Notes:} \ This \ figure \ repeats \ Figure \ 3 \ across \ the \ "Fraction \ Below \ Poverty \ Line" \ measure \ (top \ and \ bottom \ deciles).$

.06 Lowest Fraction Black (1st Decile) .04 Kernel Density .02 Highest Fraction Black (10th Decile) Wait Time in Minutes

Figure A.7: Wait Time Disparities: Stricter Likely Voter Filter

Notes: In this figure, we repeat Figure 3 with a sub-sample of voters. Specifically, we use a more conservative first filter for identifying "likely voters." Our primary analysis limited the sample to individuals who (a) spent at least one minute at a polling place, (b) did so at only one polling place on Election Day, and (c) did not spend more than one minute at that polling location in the week before or the week after Election Day. Here we make (c) stricter by dropping anyone who visited any other polling place on any day in the week before or after Election Day, e.g. we would thus exclude a person who only visited a school polling place on Election Day, but who visited a church (that later serves a polling place) on the prior Sunday. This drops our primary analysis sample from 164.489 voters down to 68.812 voters. Kernel densities are estimated using 1 minute half-widths. The 1st decile corresponds to the 15.402 voters across 6,576 polling places with the lowest percent of black residents (mean = 0%). The 10th decile corresponds to the 6,881 voters across the 3,229 polling places with the highest percent of black residents (mean = 54%).

Figure A.8: Main Specification Run on Placebo Days



Notes: In this figure, we replicate our sample construction for the 14 placebo days around Election Day, similar to A.2. We then repeat the regression used in Table 1, Panel A, Column 1 for each of these days. We find that none of these alternative dates produces a positive coefficient, suggesting that our approach likely identifies a lower bound on the racial gap in wait times. Additional Notes: Points correspond to coefficients on "Fraction Black" (+/- 1.96 standard errors) from separate regressions.

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Table A.2: Fraction Black and Voter Wait Time: OLS

	(1)	(2)	(3)	(4)	(5)	(6)
Fraction Black	5.23***	5.22***	4.96***	4.84***	3.27***	3.10**
	(0.39)	(0.39)	(0.42)	(0.42)	(0.45)	(0.44)
Fraction Asian		-0.79	-2.48***	1.30^{*}	-1.10	-0.66
		(0.72)	(0.74)	(0.76)	(0.81)	(0.81)
Fraction Hispanic		1.15***	0.43	3.90***	1.50***	1.72**
		(0.37)	(0.40)	(0.46)	(0.50)	(0.50)
Fraction Other Non-White		12.01***	11.76***	1.66	2.04	1.75
		(1.94)	(1.95)	(1.89)	(1.93)	(1.93
Fraction Below Poverty Line			0.06	-2.03***	0.28	1.10
			(0.74)	(0.71)	(0.67)	(0.67)
Population (1000s)			0.43***	0.32***	0.28***	0.27**
			(0.06)	(0.05)	(0.05)	(0.05)
Population Per Sq Mile (1000s)			0.04***	0.07***	0.06***	0.06**
- , ,			(0.01)	(0.01)	(0.01)	(0.01)
Android $(0 = iPhone)$						0.38**
,						(0.10
N	154,411	154,411	154,260	154,260	154,260	154,26
R^2	0.00	0.00	0.01	0.06	0.13	0.17
DepVarMean	19.13	19.13	19.12	19.12	19.12	19.12
Polling Area Controls?	No	No	Yes	Yes	Yes	Yes
State FE?	No	No	No	Yes	Yes	Yes
County FE?	No	No	No	No	Yes	Yes
Hour of Day FE?	No	No	No	No	No	Yes

Notes: In this figure we repeat Table 1, Panel A, but display the coefficients on control variables (Fraction Below Poverty Line, Population, Population, Population Per Sq Mile). We additionally add column 6 which adds two additional sets of control variables: fixed effects for each hour of the day (hour of arrival for a wait time) and whether the cellphone is Android (vs. iPhone). Additional Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day. Dep VarMean is the mean of the dependent variable. Polling Area Controls includes the population, population per square mile, and fraction below poverty line for the block group of the polling station. "Asian" includes "Pacific Islander." "Other Non-White" includes the "Other," "Native American," and "Multiracial" Census race categories. Column 6 adds an additional specification beyond Table 1; there we include fixed effects for the hour of arrival (i.e. the first ping of a waiting spell within the 60 meters of the polling place centroid) and a dummy variable for whether the observation corresponds to an Android phone.

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Table A.3: Fraction Black and Voter Wait Time: LPM

Table A.3: Fra						(0)
	(1)	(2)	(3)	(4)	(5)	(6)
Fraction Black	0.12^{***}	0.12^{***}	0.11***	0.10^{***}	0.07^{***}	0.06***
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Fraction Asian		-0.00	-0.04**	0.04**	-0.02	-0.01
		(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
Fraction Hispanic		0.03***	0.01	0.08***	0.03***	0.04***
		(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Fraction Other Non-White		0.21***	0.21***	0.03	0.05	0.04
		(0.04)	(0.04)	(0.04)	(0.04)	(0.04)
Fraction Below Poverty Line			-0.02	-0.05***	0.01	0.03^{*}
			(0.02)	(0.02)	(0.01)	(0.01)
Population (1000s)			0.01***	0.01***	0.01***	0.01***
			(0.00)	(0.00)	(0.00)	(0.00)
Population Per Sq Mile (1000s)			0.00***	0.00***	0.00***	0.00***
			(0.00)	(0.00)	(0.00)	(0.00)
Android (0 = iPhone)						0.01***
,						(0.00)
N	154,411	154,411	154,260	154,260	154,260	154,260
R^2	0.00	0.00	0.01	0.04	0.10	0.14
DepVarMean	0.18	0.18	0.18	0.18	0.18	0.18
Polling Area Controls?	No	No	Yes	Yes	Yes	Yes
State FE?	No	No	No	Yes	Yes	Yes
County FE?	No	No	No	No	Yes	Yes
Hour of Day FE?	No	No	No	No	No	Yes

^{*} p < 0.10, ** p < 0.05, *** p < 0.01

Notes: In this figure we repeat Table 1, Panel B, but display the coefficients on control variables (Fraction Below Poverty Line, Population, Population Per Sq Mile). We additionally add column 6 which adds two additional sets of control variables: fixed effects for each hour of the day (hour of arrival for a wait time) and whether the cellphone is Android (vs. iPhone). Additional Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day. Dep VarMean is the mean of the dependent variable. The dependent raiable is a binary variable equal to 1 if the wait time is greater than 30 minutes. Polling Area Controls includes the population, population per square mile, and fraction below poverty line for the block group of the polling station. "Asian" includes "Pacific Islander." "Other Non-White" includes the "Other." "Native American," and "Multiracial" Census race categories. Column 6 adds an additional specification beyond Table 1; there we include fixed effects for the hour of arrival (i.e. the first ping of a waiting spell within the 60 meters of the polling place centroid) and a dummy variable for whether the observation corresponds to an Android phone.

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Table A.4: Robustness: Regressions for Figure 4

						0		9			
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Panel A: Low	er to Up	per Bour	nd Split	(10% inc	rements)						
	Lower	S1	S2	S3	S4	Midpoint	S6	87	S8	S9	Upper
Fraction Black	4.71***	4.82***	4.92***	5.02***	5.13***	5.23***	5.33***	5.44***	5.54***	5.65***	5.75***
	(0.35)	(0.36)	(0.36)	(0.37)	(0.38)	(0.39)	(0.40)	(0.41)	(0.42)	(0.43)	(0.45)
N	154,411	154,411	154,411	154,411	154,411	154,411	154,411	154,411	154,411	154,411	154,411
\mathbb{R}^2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
DepVarMean	11.26	12.83	14.40	15.98	17.55	19.13	20.70	22.28	23.85	25.42	27.00
Panel B: Reas	onable \	/alues (S	ee Notes)							
	RV1	RV2	RV3	RV4	RV5	RV6	RV7	RV8	RV9	RV10	
Fraction Black	5.78***	5.33***	5.23***	5.23***	5.28***	5.37***	3.26***	3.32***	3.39***	3.56***	
	(0.54)	(0.49)	(0.45)	(0.39)	(0.39)	(0.39)	(0.23)	(0.23)	(0.23)	(0.23)	
N	159,046	158,167	156,937	154,411	154,014	153,433	141,170	140,470	139,788	138,452	
R^2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
DepVarMean	22.92	21.79	20.63	19.13	19.17	19.24	15.64	15.71	15.78	15.91	
Panel C: Rad	us Arou	nd Build	ing (10 t	o 100 m	eters)						
	Rad10	Rad20	Rad30	Rad40	Rad50	Rad60	Rad70	Rad80	Rad90	Rad100	
Fraction Black	1.43***	1.95***	2.86***	3.98***	4.53***	5.23***	5.68***	6.22***	6.72***	6.99***	
	(0.39)	(0.32)	(0.33)	(0.35)	(0.37)	(0.39)	(0.41)	(0.43)	(0.46)	(0.48)	
N	60,822	120,921	150,994	161,728	161,140	154,411	144,880	134,133	123,417	113,797	
\mathbb{R}^2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
DepVarMean	12.09	14.00	15.63	17.00	18.16	19.13	20.00	20.71	21.32	21.81	

^{*} p < 0.10, ** p < 0.05, *** p < 0.01

Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day. Dep VarMean is the mean of the dependent variable. All specifications are of the form used in Column 1 of Panel A, Table 1. See further notes on Figure 4.

Table A.5: Stricter Likely Voter Filter: Fraction Black and Voter Wait Time

	(1)	(2)	(3)	(4)	(5)
Panel A: Ordinary Least	Square	es(Y = V)	Wait Time)		
Fraction Black	4.97***	4.93***	4.38***	4.31***	2.70***
	(0.53)	(0.53)	(0.56)	(0.57)	(0.63)
Fraction Asian		-1.98*	-3.80***	0.78	-2.21*
		(1.05)	(1.11)	(1.10)	(1.18)
Fraction Hispanic		1.21**	0.23	4.27***	2.10***
		(0.52)	(0.56)	(0.67)	(0.74)
Fraction Other Non-White		12.54***	11.86***	0.85	2.05
		(2.26)	(2.27)	(2.22)	(2.46)
N	68,811	68,811	68,724	68,724	68,724
R^2	0.00	0.00	0.01	0.06	0.14
DepVarMean	19.38	19.38	19.36	19.36	19.36
Polling Area Controls?	No	No	Yes	Yes	Yes
State FE?	No	No	No	Yes	Yes
County FE?	No	No	No	No	Yes
Panel B: Linear Probabi	lity Mo	del(Y =	Wait Time	> 30min)	
Fraction Black	0.11***	0.11***	0.11***	0.09***	0.05***
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Fraction Asian		-0.00	-0.04*	0.05*	-0.03
		(0.02)	(0.02)	(0.02)	(0.03)
Fraction Hispanic		0.03**	0.01	0.09***	0.04**
		(0.01)	(0.01)	(0.02)	(0.02)
Fraction Other Non-White		0.22***	0.21***	0.02	0.05
		(0.05)	(0.05)	(0.05)	(0.06)
N	68,811	68,811	68,724	68,724	68,724
R^2	0.00	0.00	0.01	0.05	0.12
DepVarMean	0.18	0.18	0.18	0.18	0.18
Polling Area Controls?	No	No	Yes	Yes	Yes
State FE?	No	No	No	Yes	Yes
County FE?	No	No	No	No	Yes

^{*} p < 0.10, ** p < 0.05, *** p < 0.01

Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day. DepVarMean is the mean of the dependent variable. The dependent variable in Panel B is a binary variable equal to 1 if the wait time is greater than 30 minutes. $Polling\ Area\ Controls$ includes the population, population per square mile, and fraction below poverty line for the block group of the polling station. "Asian" includes "Pacific Islander." "Other Non-White" includes the "Other," "Native American," and "Multiracial" Census race categories. See further notes on Figure A.7.

Appendix B: Mechanisms

In Section 4 of the paper, we documented large and persistent differences in wait times for areas with a larger fraction of black residents relative to white residents. In this section, we explore potential explanations for these differences. This descriptive exercise is important as different mechanisms may imply different corrective policies. For example, if wait time disparities are driven by differential job flexibility (and thus bunching in busy arrival hours), the best policy response might be to create Federal holidays for elections (e.g. as proposed in "Democracy Day" legislation). By contrast, if the disparity is driven by inequalities in provided resources, the optimal policy response might be to set up systems to monitor and ensure equal resources per voter across the nation.

The nature of our data does not lend itself to a deep exploration of mechanism. A complete understanding of mechanism would likely need to include a large amount of investigative work including data for the quantity and quality of resources at the level of a polling place. There are also two measurement and identification issues to keep in mind. First, as noted in Section 3, our wait time measure may include voters who abandon the line after discovering a long wait time. Second, our estimates are conditional on a voter turning out. Each of the mechanisms below could affect either of these intermediate outcomes. For example, a Strict ID law could increase the amount of time it takes to process a single voter. However, it may also discourage potential voters from turning out to vote (decreasing the actual queue length for the marginal voter) and it could increase the likelihood that a voter who does turnout would leave the line early (decreasing the average measured time from our method). These two issues thus further caution against using this analysis in isolation to identify the causal effect of addressing these mechanisms. However, in our analysis below, we are able to cast doubt on a few potential mechanisms and draw some tentative conclusions that at the very least may help guide further work that attempts to pinpoint causal determinants of wait times.

B.1 Inflexible Arrival Times

One potential mechanism for the differences in wait times that we find is that areas differ in the intensity of voting that occurs at different times of day. For example, it is possible that polling stations in black and white areas are equally resourced and prepared to handle voters, but that voters in black areas are more likely to show up all at once. This could occur, for example, if black voters have less flexible jobs than white voters and therefore can only

vote in the early morning or evening. This mechanism for differences in wait times is a bit more indirect than other potential mechanisms in that it is not driven by less attention or resources being devoted to black areas, but rather is a result of congestion caused by more general features of the economy (e.g. job flexibility).

To test for evidence of this mechanism, Figure B.1 plots the density of arrival time for voters from the most black areas (highest decile) and from the the least black areas (lowest decile). A visual inspection of Figure B.1 shows quite minor differences in bunching. Voters in black areas are slightly more likely to show up in the very early morning hours whereas voters in white areas are slightly more likely to show up in the evening.

Figure B.1 does not appear to make a particularly strong case for bunching in arrival times. However, as we showed in Panel B of Figure A.3, wait times are longer in the morning (when black voters are slightly more likely to show up). A simple test to see if these differences are large enough to explain the racial disparities we find is to include hour-of-the-day fixed effects in our main regression specification. These fixed effects account for any differences in wait times that are due to one group (e.g. voters from black areas) showing up disproportionately during hours that have longer wait times. We include hour-of-the-day fixed effects in Column 6 of Appendix Table A.2. The coefficient on fraction black drops from a disparity of 3.27 minutes to a disparity of 3.10 minutes, suggesting that hour-of-the-day differences are not a primary factor that contributes to the wait-time gap that we find.

A different way to show that bunching in arrival times is not sufficient to explain our results is to restrict the sample to hours that don't include the early morning. In Appendix Table B.1, we replicate our main specification (Column 4 in Table 2), but only use data after 8am, 9am, and 10am. We continue to find strong evidence of a racial disparity in wait times despite the fact that this regression is including hours of the day (evening hours) when white areas may be more congested due to bunching. This table also provides estimates that exclude both morning and evening hours when there are differences in bunching by black and white areas and also restricts to just evening hours where white areas have higher relative volume in arrivals. Once again, we find strong black-white differences in voter wait times during these hours.

 $^{^7}$ We restrict the sample to the 32 states that opened no later than 7am and closed no earlier than 7pm, and restrict the range to be from 7am to 7pm in order to avoid having attrition in the graph due to the opening and closing times of different states. We thus exclude the following states from this figure: Arkansas, Georgia, Idaho, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Nebraska, New Hampshire, North Dakota, Tennessee, Vermont. Despite this sample restriction, we find a similar disparity estimate in this restricted sample (coefficient = 5.43; t = 13; N = 124,950) as in the full sample (coefficient = 5.23; t = 14; N = 154,411).

We conclude that the evidence does not support congestion at the polls due to bunching of arrival times as a primary mechanism explaining the racial disparity in wait times that we document.

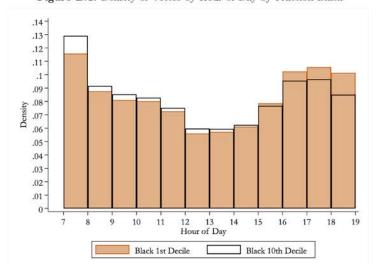


Figure B.1: Density of Voters by Hour of Day by Fraction Black

Notes : Sample restricted to the 32 states that open no later than 7 am and close no earlier than 7 pm across all counties.

B.2 Partisan Bias

Another explanation for why voters in black areas may face longer wait times than voters in white areas is that election officials may provide fewer or lower quality resources to black areas. Using carefully-collected data by polling place across three states in the 2012 election (from Famighetti et al. 2014), Pettigrew (2017) finds evidence of exactly this – black areas were provided with fewer poll workers and machines than white areas. Thus, it seems likely that differential resources contribute to the effects that we find. An even deeper mechanism question though is why black areas might receive a lower quality or quantity of election resources. In this section, we explore whether partisanship is correlated with wait times.

At the state level, the individual charged with being the chief elections officer is the

secretary of state (although in some states it is the lieutenant governor or secretary of the commonwealth). The secretary of state often oversees the distribution of resources to individual polling places, although the process can vary substantially from state to state and much of the responsibility is at times passed down to thousands of more local officials (Spencer and Markovits 2010).⁸

It could be that state and county officials uniformly have a bias against allocating resources to black areas and this creates racial disparities in wait times across the U.S. as a whole. Alternatively, some election officials may be especially unequal in the resources they provide. An observable factor that could proxy for how unfair an election official may be in allocating resource is party affiliation. In 2016, black voters were far more likely to vote for the Democratic candidate than the Republican candidate. Given this large difference in vote share, it is possible that Republican party control or overall Republican party membership of an area predicts a motivation (either strategic or based in prejudice) for limiting resources to polling places in black areas.

To test for evidence of a partisan bias, we plot empirical-Bayes-adjusted state-level racial disparities in wait times against the 2016 Republican vote share at both the state (panel A of Figure B.2) and county level (panel B of Figure B.2). Panel A also color codes each state marker by the party affiliation of the chief elections officer in the state. The fitted lines in

One major reason why polling place inefficiency has yet to be adequately studied is that the administration of elections in the United States is extremely complicated. Each state creates its own rules, budgets its own money, and constructs its own election processes. In some states, such as Wisconsin and Michigan, local jurisdictions have primary autonomy over election administration. In others, such as Oklahoma and Delaware, all election officials are state employees. Still others share administrative duties between state and local election officials. For example, in California, counties have significant authority, yet they operate within a broad framework established by the Secretary of State. On the federal level, the United States Constitution preserves the right of Congress to supersede state laws regulating congressional elections. The result is a complex web of overlapping jurisdictions and 10,071 government units that administre elections. To complicate matters further, authority in all jurisdictions is ceded to two million poll workers who control the success or failure of each election.

⁸Spencer and Markovits (2010) provide a useful summary of the problem of identifying precisely who is responsible for election administration in each of the 116,990 polling places spread over the country:

⁹Exit polls suggested that 89% of black voters cast their ballot for the Democratic candidate in 2016 whereas only 8% voted for the Republican candidate (source: https://www.cnn.com/election/2016/results/exit-polls).

¹⁰The sample sizes for some counties are very small. Thus, we restrict the analysis to the 718 counties with at least 30 likely voters (and for which the disparity can be estimated) in order to avoid small-sample inference issues.

¹¹State and county Republican vote shares are taken from the MIT Election Data and Science Lab's County Presidential Election Returns 2000-2016 (https://dataverse.harvard.edu/file.xhtml?

both panels do not show evidence of positive correlation between Republican vote share and racial disparities in voter wait times. If anything we find larger disparities in areas that have a lower Republican vote share.

While this analysis is correlational in nature, it suggests that racial disparities in wait times are not primarily driven by how Republican the state/county is. Rather, both red and blue states and counties are susceptible to generating conditions that lead to black voters spending more time at the polls than their white counterparts.

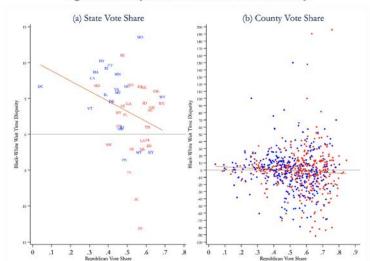


Figure B.2: Republican Vote Share and Racial Gaps

Notes: Panel A shows a scatter plot of empirical-Bayes-adjusted state-level wait time disparities (i.e. the adjusted coefficient from a regression of wait time on "Fraction Black", with standard errors clustered at the pollling place level) against the 2016 Republican vote share for that state. Panel B shows the same relationship for county-level measures. Points are colored by the partisan affiliation of the chief elections officer in that State (Red = Republican). The fit lines are produced using lift in Stata.

persistentId=doi:10.7910/DVN/VOQCHQ/FQ9NBF&version=5.0). We compute the Republican vote share as the number of votes cast at the County (or State) level divided by the total number of votes cast in that election, and thus states with a Republican vote share under 50% may still have more votes for Trump over Clinton (e.g. Utah). The partisan affiliation of the chief elections officer in the state is taken from: https://en.wikipedia.org/w/index.php?title=Secretary_of_state_(U.S._state_government)&oldid=746677873

B.3 County-Level Correlates

We do not find evidence of a correlation between party affiliation at the county level and racial disparities in wait times. However, there may be other characteristics of counties that correlate with our measure of racial disparities. In Figure B.3, we show estimates of a regression of our measure of racial disparities at the county-level (empirical-Bayes adjusted and limited to those counties with more than 30 observations) against a Social Capital Index, Top 1% Income Share, Gini Coefficient, Theil Index of Racial Segregation, and two measures of social mobility from Chetty and Hendren (2018). Each of these variables is taken from Figure 5 of Chetty and Hendren (2018), corresponds to the 2000 Census, and has been standardized. We find little evidence that voter wait time disparities are correlated with these additional measures. Overall, we argue that a clear pattern does not emerge where counties of a particular type are experiencing the largest disparities in voter wait time.

B.4 State Voting Laws

A large recent discussion has emerged regarding the impact of Strict ID laws (Cantoni and Pons 2019; Grimmer and Yoder 2019) and unequal access to early voting (Kaplan and Yuan 2019; Herron and Smith 2014) on the voting process. Both of these types of laws have the potential to produce racial inequalities in wait times. For example, Strict ID laws may disproportionately cause delays at polling places in minority areas. The effect of early voting laws is less clear. It is possible that early voting allows voters who would have otherwise faced long lines to take advantage of the early voting process and therefore release some of the pressure at the polling places with the longest waits. However, it is also possible that white voters are more likely to learn about and take advantage of early voting (or that early voting is more likely to be available in white areas within a State that has early voting) which could lead to even longer disparities in wait times if election officials don't adjust polling place resources to accommodate the new equilibrium.

The final two bars in Figure B.3 show how our measure of racial disparity at the state level interacts with states with early voting laws (N=34) and states with Strict ID laws (N=10). ¹³ As can be seen in the figure, we do not find evidence that the variation in wait time

¹²We source these variables from: https://opportunityinsights.org/wp-content/uploads/2018/04/online_table4-2.dta and merge on the Census County FIPS (taken from the 2000 Census in the Chetty and Hendren (2018) data and from the 2017 ACS in our data.

¹³Following Cantoni and Pons (2019), we source both of these measures from the National Conference of State Legislatures. We use Internet Archive snapshots from just before the 2016 Election to obtain measures relevant for that time period (e.g. for Strict ID laws we use

disparities is being explained in a substantial way by these laws.

Social Capital
Index
Top 1%
Income Share
Gini Coefficient
Theil Index of
Racial Segregation
Chetty p75
Causal Effect
Chetty p25
Causal Effect
STATE: Strict ID
STATE: Strict ID

STATE: Early Voting

-10
-5
Impact of Covariate on Black-White Wait Time Disparity

Figure B.3: County Characteristics, State Laws, and Racial Disparities

Notes: Each row reports the coefficient from a bivariate regression of a county-level (empirical-Bayes-adjusted) wait time average on a county-level measure (rows 1-8) or of a state-level (empirical-Bayes-adjusted) wait time average on a state-level measure. See footnote 9 for further details on the county-level measures taken from Chetty and Hendren (2018). States identified as having strict voter ID laws in 2016 are: Arizona, Georgia, Indiana, Kansas, Mississippi, North Dakota, Ohio, Tennessee, Virginia, and Wisconsin. States identified as not having any type of early voting in 2016 are: Alabama, Delaware, Indiana, Kentucky, Michigan, Mississippi, Miscouri, New York, Pennsylvania, Rhode Island, South Carolina, Virginia.

B.5 Congestion

A final mechanism that we explore is congestion due to fewer or lower quality resources per voter at a polling place. Congestion may cause longer wait times and be more likely to be a factor at polling places with more black voters. We do not have a direct measure of resources

the following link: https://web.archive.org/web/20161113113845/http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx). For the early-voting measure we define it as any state that has same-day voter registration, automatic voter registration, no-excuse absentee voting, or early voting (Cantoni and Pons (2019) study multiple elections, and thus define this measure as the share of elections over which one of these was offered). States identified as having strict voter ID laws in 2016 are: Arizona, Georgia, Indiana, Kansas, Mississippi, North Dakota, Ohio, Tennessee, Virginia, and Wisconsin. States identified as not having any type of early voting in 2016 are: Alabama, Delaware, Indiana, Kentucky, Michigan, Mississippi, Missouri, New York, Pennsylvania, Rhode Island, South Carolina, Virginia.

or overall congestion at the polling place level, but a potential proxy for congestion is the number of registered voters who are assigned to each polling place. We use data from L2's 2016 General Election national voter file. These data allow us to determine the total number of registered voters who are assigned to vote at each polling place and also the number of actual votes cast. For most voters, their polling place was determined by the name of their assigned precinct; precincts were assigned to one or more polling places by their local election authority. In the rare case where voters were allowed their choice from multiple polling places, the polling place closest to their home address was used. Registered voters and votes cast by polling place are highly correlated (correlation = 0.96) and the analysis below is unchanged independent of what measure we use. We will therefore focus on the number of registered voters for each polling place.

It is not obvious that polling places with more voters should have longer overall wait times. In a carefully-resourced system in equilibrium, high-volume polling places should have more machines and polling workers and therefore be set up to handle the higher number of voters. However, it is possible that the quality and quantity of polling resources is out of equilibrium and does not compensate for the higher volume. For example, polling-place closures or residential construction may increase the number of registered voters assigned to a given polling place and polling resources may not adjust fast enough to catch up to the changing volume. Alternatively, even if variable resource are in equilibrium, there may be fixed differences that lead to longer wait times in high volume areas (e.g. constrained building sizes leading to slower throughput, or a higher risk of technical issues).¹⁴

Following our baseline specifications, we regress voting wait time for each individual in our sample on the number of registered voters assigned to the polling place where they voted. These results can be found in Appendix Table B.3. We do indeed find a positive relationship across specifications with varied fixed effects suggesting that congestion may be an issue in high-volume polling locations.

Given the above association, if polling places with a large fraction of black voters are also

¹⁴In Appendix Table B.2, we investigate these potential fixed building type differences directly by matching polling place buildings to information on size and types from Microsoft OpenStreetMap. We group building types into 6 categories (Commercial, Medical, Private, Public, Religious, School) and 76 sub-categories (e.g. Commercial is divided into Gym, Hotel, Shopping Center, and 7 other sub-categories). We show in Panel C that building categories and building size are only weakly predictive of fraction black. Panels A and B in turn show that controlling for a second-order polynomial in building size (Column 2), category fixed effects (Column 3), and sub-category fixed effects (Column 4) has little effect on estimates of the racial disparities. This analysis suggests that at least these coarse building characteristics, on their own, do not seem to mediate the relationship. Moreover, this analysis provides some reassurance that the rules for cleaning data—which may differentially affect different building types—do not skew our estimates of the racial disparities.

more likely to be high volume, this could help explain the black-white disparity in wait times that we have documented. The data, however, do not bear this out. There is not a strong correlation between volume and the fraction of black residents at a polling place (correlation = .03). One way to see this is we run our baseline regressions, but include the number of registered voters in each polling place as a control. The table indicates that this new control does not significantly diminish the racial disparity in wait times and if anything may cause the disparity to become a bit larger in some specifications.

Lastly, we explore whether or not the racial disparity in voter wait times that we document interacts with our proxy for congestion. Is the racial gap in wait times larger or smaller in high-volume polling places? In Appendix Table B.4 we run our baseline regressions and include the number of registered voters in each polling place and also an interaction between registered voters and the fraction of black residents. Across all specifications, we find a significant and robust interaction effect indicating larger racial disparities at higher volume polling places. Figure B.4 helps put this interaction effect in perspective. In this figure, we plot the density function for the number of voters registered in each individual's polling place in our data (labeled on the left y-axis). We also plot the predicted wait time for an area composed entirely of black residents (fraction black = 1) as well as an area with no black residents (fraction black = 0) by the number of registered voters at the polling place (labeled on the right y-axis). The predicted lines indicate that the black-white disparity in wait times for individuals who vote at a low-volume polling location (10th percentile = 1,150 registered voters) is 3.7 minutes whereas the disparity in high-volume polling locations (90th percentile = 5,242 registered voters) is almost twice as large at 7 minutes.

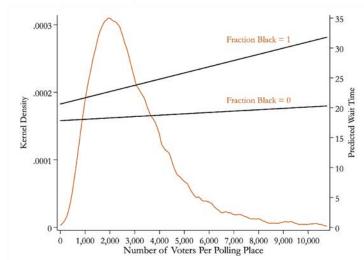


Figure B.4: Congestion and Wait Times by Fraction Black

Notes: The left y-axis corresponds to the kernel density (estimated using 100 person half-widths) of the Number of Registered Voters per Polling Place (after first dropping the top 1% of observations, i.e. voters in polling places with more than 10,746 registered individuals). The right y-axis corresponds to the two regression lines (estimated on the full sample) – both lines correspond to a voter (i.e. cellphone identifier)-level regression of wait time on "Fraction Black", the "Number of Registered Voters Per Polling Place", and the interaction. The top line reports the predicted regression line for "Fraction Black" = 1, while the bottom line reports this for "Fraction Black" = 0.

Thus, we find that the largest racial disparities in voter wait times are in the highest volume polling places. This finding is consistent with several possible stories. For example, this pattern may reflect another dimension of the aforementioned inequality in polling machines, workers, and other support. Black areas may face persistent under-resourcing and these resourcing constraints may be especially harmful at higher volumes of voters. Relatedly, election officials may respond less quickly to adjustments in volume (e.g. caused by polling closures or changes in voter-age population) in areas with higher concentrations of black residents. This off-equilibrium response may lead to the differential gradient we find in volume between black and white areas. Our analysis is correlational and thus does not allow us to make conclusive statements about the exact underlying mechanism. On the other hand, this descriptive exercise can provide guidance on potential sources for the disparity that are worthy of further exploration.

Table B.1: Fraction Black and Voter Wait Time - Restricting Hour of Arrival Windows

	(1)	(2)	(3)	(4)	(5)	(6)
Panel A: Ordinary Least	Squares	$\mathbf{Y} = \mathbf{V}$	Vait Time	e)		
Fraction Black	4.84***	2.90***	2.21***	1.85***	1.71***	1.92***
	(0.42)	(0.43)	(0.43)	(0.44)	(0.54)	(0.51)
Fraction Asian	1.30^{*}	0.20	-0.14	-0.41	0.57	-1.08
	(0.76)	(0.77)	(0.79)	(0.80)	(1.01)	(0.98)
Fraction Hispanic	3.90***	3.23***	3.22***	3.26***	0.84	5.25***
	(0.46)	(0.48)	(0.50)	(0.51)	(0.62)	(0.63)
Fraction Other Non-White	1.66	1.14	1.40	2.20	0.53	3.02
	(1.89)	(1.92)	(2.00)	(2.06)	(2.44)	(2.55)
N	154,260	124,367	111,480	99,858	57,863	52,995
R^2	0.06	0.04	0.04	0.04	0.04	0.04
DepVarMean	19.12	17.67	17.50	17.34	17.47	16.88
Sample?	Full	$\geq 8am$	$\geq 9am$	$\geq 10am$	10 am-3pm	$\geq 3pm$
Panel B: LPM $(Y = Wa$	it Time	> 30min)			
Fraction Black	0.10***	0.06***	0.04***	0.03***	0.03**	0.03***
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Fraction Asian	0.04**	0.02	0.01	0.01	0.02	0.01
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
Fraction Hispanic	0.08***	0.06***	0.06***	0.07***	0.01	0.11***
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Fraction Other Non-White	0.03	0.01	0.03	0.05	0.02	0.04
	(0.04)	(0.04)	(0.04)	(0.05)	(0.05)	(0.06)
N	154,260	124,367	111,480	99,858	57,863	52,995
\mathbb{R}^2	0.04	0.03	0.03	0.03	0.03	0.03
DepVarMean	0.18	0.14	0.14	0.14	0.14	0.13
Sample?	Full	$\geq 8am$	$\geq 9am$	$\geq 10am$	10am-3pm	$\geq 3pm$

^{*} p < 0.10, ** p < 0.05, *** p < 0.01

Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day, DepVarMean is the mean of the dependent variable. Specifications match those of Table 1, Column 4. The dependent variable in Panel B is a binary variable equal to 1 if the wait time is greater than 30 minutes. All columns include state fixed effects and polling area controls (includes the population, population per square mile, and fraction below poverty line for the block group of the polling station. "Asian" includes "Pacific Islander." "Other Non-White" includes the "Other," "Native American," and "Multiracial" Census race categories).

Table B.2: Controlling for Building Type and Size

Least S 5.23***	quares (Y = Wai	t Time						(10)
5.23***			it rime)						
	5.41***	5.69***	5.55***	7.57	10.60	4.10***	4.54***	5.62***	6.36***
(0.39)	(0.39)	(0.38)	(0.38)	(6.11)	(6.44)	(1.57)	(0.83)	(0.87)	(0.52)
154,411	154,411	154,411	153,937	2,259	474	10,514	37,243	44,823	59,098
0.00	0.01	0.01	0.01	0.00	0.01	0.00	0.00	0.00	0.01
19.13	19.13	19.13	19.12	19.60	20.18	19.35	19.42	20.33	17.96
43,385	43,385	43,385	43,220	628	165	3,962	12,630	12,173	13,827
N_{O}	No	Yes	No	No	No	No	No	No	No
No	No	No	Yes	No	No	No	No	No	No
All	All	All	All	Com	Med	Pri	Pub	Rel	Sch
obabilit	y Model	(Y = W	ait Time	> 30m	in)				
0.12***	0.12***	0.12***	0.12***	0.15	0.17	0.09***	0.10***	0.12***	0.14***
(0.01)	(0.01)	(0.01)	(0.01)	(0.12)	(0.14)	(0.03)	(0.02)	(0.02)	(0.01)
154,411	154,411	154,411	153,937	2,259	474	10,514	37,243	44,823	59,098
0.00	0.00	0.01	0.01	0.00	0.01	0.00	0.00	0.00	0.01
0.18	0.18	0.18	0.18	0.20	0.19	0.18	0.18	0.20	0.16
43,385	43,385	43,385	43,220	628	165	3,962	12,630	12,173	13,827
No	No	Yes	No	No	No	No	No	No	No
No	No	No	Yes	No	No	No	No	No	No
All	All	All	All	Com	Med	Pri	Pub	Rel	Sch
ing Cha	racteristi	ics Predi	ct Race?	(Y =	Fraction	ı Black)			
0.03									
(0.02)									
0.00									
, ,									
(0.01)									
0.03***									
(0.01)									
	0.01***								
	(0.00)								
154,411	154,411								
0.01	0.00								
19.13	19.13								
43,385	43,385								
	19.13 43.885 No No All 0.12*** (0.01) 154,411 0.03 0.03 (0.02) 0.00 (0.01) 0.00 (0.01) 0.00 (0.01) 0.00 (0.01) 154,411 0.11 154,411 0.11 19.13	19.13 19.13 43,385 No	19.13 19.13 19.13 43,385 43,385 43,385 No No No No All All All All obability Model (Y = W 0.12*** 0.12*** 0.12*** (0.01) (0.01) (0.01) 154,411 154,411 154,411 0.00 0.00 0.01 0.18 0.18 0.18 43,385 43,385 43,385 No No Yes No No No No All All All All ing Charteristic Predi 0.03 (0.02) 0.00 (0.01) -0.00 (0.01) 0.03*** (0.01) 0.03*** (0.01) 0.03*** (0.01) 0.03*** (0.01) 0.03*** (0.01) 0.03*** (0.01) 0.03*** (0.01) 0.01 0.01 154,411 154,411 0.01 0.00 19.13 19.13 43,385 43,385	19.13 19.13 19.13 19.12 143.85 43.385 43.385 43.220 No No No Yes No No No Yes All All All All All Obability Word (Y = Wait Time (0.01)	19.13	19.13	19.13	19.13	19.13

^{*} p < 0.10, ** p < 0.05, *** p < 0.01

Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day. DepVarMean is the mean of the dependent variable. The dependent variable in Panel B is a binary variable equal to 1 if the wait time is greater than 30 minutes. Column 1 of Panels A and B present the baseline specification shown in Column 1, Panel A, Table 1 in the text. Column 2 includes a second-order polynomia in building area, where building area is in 5,000 square meters units (close to the standard deviation of building area in our sample), Columns 3 includes building category (Commercial, Medical, Private, Public, Religious, School) fixed effects, and Column 4 includes building sub-category (76) fixed effects. Columns 5-10 show sub-sample estimates across the 6 building categories. The dependent variable in Panel C is "Fraction Black," and the omitted category is "Poll: Commercial".

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Table B.3: Congestion (Table 2 with added Volume Controls)

Panel A: Ordinary Least	(1)	(2) s (V — V	(3) Vait Time	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Fraction Black	5.20*** (0.38)	5.21*** (0.38)	5.18*** (0.39)	5.18*** (0.38)	4.97*** (0.42)	4.96*** (0.41)	4.80*** (0.42)	4.82*** (0.41)	3.32*** (0.45)	3.36***
Voters Per Polling Place		0.29*** (0.07)		0.30*** (0.07)		0.25*** (0.07)		0.51*** (0.06)		0.61*** (0.05)
Fraction Asian			-0.80 (0.72)	-0.81 (0.71)	-2.51*** (0.75)	-2.34*** (0.74)	1.25" (0.76)	1.04 (0.75)	-1.13 (0.81)	-1.18 (0.80)
Fraction Hispanic			1.01*** (0.37)	0.95** (0.37)	0.31 (0.40)	0.30 (0.40)	3.81*** (0.46)	3.85*** (0.47)	1.53*** (0.50)	1.67*** (0.51)
Fraction Other Non-White			12.49*** (1.96)	12.97*** (1.97)	12.32*** (1.97)	12.67*** (1.98)	1.96 (1.90)	2.26 (1.89)	1.95 (1.95)	1.90 (1.95)
N R ²	152,317 0.00	152,317 0.00	152,317 0.00	152,317 0.01	152,167 0.01	152,167 0.01	152,167 0.06	152,167 0.06	152,167 0.13	152,163 0.13
DepVarMean Polling Area Controls?	19.10 No	19.10 No	19.10 No	19.10 No	19.09 Yes	19.09 Yes	19.09 Yes	19.09 Yes	19.09 Yes	19.09 Yes
State FE? County FE?	No No	No No	No No	No No	No No	No No	Yes No	Yes No	Yes Yes	Yes Yes
Panel B: Linear Probabi	ility Moc	iel (Y =	Wait Tir	ne > 30n	nin)					
Fraction Black	0.12*** (0.01)	0.12*** (0.01)	0.12*** (0.01)	0.12*** (0.01)	0.11*** (0.01)	0.11*** (0.01)	0.10*** (0.01)	0.10*** (0.01)	0.07*** (0.01)	0.07*** (0.01)
Voters Per Polling Place		0.01*** (0.00)		0.01*** (0.00)		0.01*** (0.00)		0.01*** (0.00)		0.01*** (0.00)
Fraction Asian			-0.00 (0.02)	-0.00 (0.02)	-0.04** (0.02)	-0.04** (0.02)	0.04** (0.02)	0.03** (0.02)	-0.02 (0.02)	-0.02 (0.02)
Fraction Hispanic			0.02*** (0.01)	0.02** (0.01)	0.01 (0.01)	0.01 (0.01)	0.08*** (0.01)	0.08*** (0.01)	0.03*** (0.01)	0.04***
Fraction Other Non-White			0.22*** (0.04)	0.23*** (0.04)	0.22*** (0.04)	0.23*** (0.04)	0.03 (0.04)	0.04 (0.04)	0.04 (0.04)	0.04
N R ²	152,317	152,317	152,317	152,317	152,167	152,167	152,167	152,167	152,167	152,16
n° DepVarMean	0.00 0.18	0.00	0.00	0.00 0.18	0.01	0.01	0.05 0.18	0.05 0.18	0.10	0.10
Polling Area Controls?	No.16	No	No No	No	Yes	Yes	Yes	Yes	Yes	Yes
State FE?	No	No	No	No	No	No	Yes	Yes	Yes	Yes
County FE?	No	No	No	No	No	No	No	No	Yes	Yes

^{*} p < 0.10, ** p < 0.05, *** p < 0.01

Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day. DepVarMean is the mean of the dependent variable. The dependent variable in Panel B is a binary variable equal to 1 if the wait time is greater than 30 minutes. Polling Area Controls includes the population, population per square mile, and fraction below poverty line for the block group of the polling station. "Asian" includes "Pacific Islander." "Other Non-White" includes the "Other," "Native American," and "Multiracial" Census race categories. "Voters per Polling Place" is the number of registered individuals for that polling place in the National voterfile.

Table B.4: Congestion Heterogeneity (Table 2 with added Volume Interactions)

	(1)	(2)	(3)	(4)	(5)
Panel A: Ordinary Least Squar			. ,	, ,	. ,
Fraction Black	2.79***	2.79***	3.01***	2.45***	1.08
	(0.79)	(0.78)	(0.82)	(0.75)	(0.74)
Voters Per Polling Place	0.23***	0.23***	0.20**	0.45***	0.54***
voters ret ronning riace	(0.08)	(0.08)	(0.08)	(0.06)	(0.05)
I DIAWA D. D.B.	, ,	, ,	, ,		, ,
Interaction: Black X VotersPerPoll	0.81***	0.80***	0.65**	0.80***	0.76***
	(0.27)	(0.27)	(0.27)	(0.23)	(0.22)
Fraction Asian		-0.88	-2.32***	1.10	-1.04
		(0.71)	(0.74)	(0.75)	(0.80)
Fraction Hispanic		0.93**	0.29	3.86***	1.68***
		(0.37)	(0.40)	(0.46)	(0.51)
Fraction Other Non-White		12.94***	12.62***	2.17	1.88
		(1.97)	(1.98)	(1.89)	(1.95)
N	152,317	152,317	152,167	152,167	152,167
R^2	0.00	0.01	0.01	0.06	0.13
DepVarMean	19.10	19.10	19.09	19.09	19.09
Polling Area Controls?	No	No	Yes	Yes	Yes
State FE?	No	No	No	Yes	Yes
County FE?	No	No	No	No	Yes
Panel B: Linear Probability Mo	odel (Y :	- Wait T	ime > 30	min)	
Fraction Black	0.07***	0.07***	0.08***	0.06***	0.03
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
Voters Per Polling Place	0.01***	0.01***	0.00***	0.01***	0.01***
Ü	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Interaction: Black X VotersPerPoll	0.01**	0.01**	0.01*	0.01***	0.01***
Therework Blook It Footier error	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Fraction Asian	(/	-0.00	-0.04**	0.03**	-0.02
PRECEION ASIAN					
		(0.02)	(0.02)	(0.02)	(0.02)
Fraction Hispanic		0.02**	0.01	0.08***	0.04***
		(0.01)	(0.01)	(0.01)	(0.01)
Fraction Other Non-White		0.23***	0.23***	0.04	0.04
		(0.04)	(0.04)	(0.04)	(0.04)
N	152,317	152,317	152,167	152,167	152,167
R^2	0.00	0.01	0.01	0.05	0.10
DepVarMean	0.18	0.18	0.18	0.18	0.18
Polling Area Controls?	No	No	Yes	Yes	Yes
State FE?	No	No	No	Yes	Yes
County FE?	No	No	No	No	Yes
* p < 0.10, ** p < 0.05, *** p < 0.01					

Notes: Robust standard errors, clustered at the polling place level, are in parentheses. Unit of observation is a cellphone identifier on Election Day. DepVarMean is the mean of the dependent variable. The dependent variable in Panel B is a binary variable equal to 1 if the wait time is greater than 30 minutes. Polling Area Controls includes the population, population per square mile, and fraction below poverty line for the block group of the polling station. "Asian" includes "Pacific Islander." "Other Non-White" includes the "Other," "Native American," and "Multiracial" Census race categories. "Voters per Polling Place" is the number of registered individuals for that polling place in the National voterfile.

Appendix C: Geographic Variation

Table C.1: State-Level Measures of Wait Time and Disparities

	(1)	(2) Una	(3) djusted	(4) Bayesian	(5) Unad	(6) justed	(7) Bayesian
State	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
Alabama	4,410	23.04	17.25	23.03	3.46	1.86	3.46
Arizona	2,069	20.80	18.75	20.78	4.67	6.56	4.05
Arkansas	907	21.73	18.27	21.67	-1.84	3.36	-0.74
California	11,743	20.43	17.37	20.43	8.32	2.04	7.89
Connecticut	2,722	12.37	12.51	12.39	11.70	3.69	9.71
Delaware	688	11.91	11.68	11.99	4.85	2.50	4.67
DistrictofColumbia	179	27.49	22.94	26.24	8.38	4.56	6.77
Florida	7,172	17.99	15.52	17.99	2.74	1.42	2.77
Georgia	5,058	20.12	18.14	20.12	4.38	1.54	4.33
Idaho	1,274	19.23	14.99	19.22	13.12	25.23	4.41
Illinois	6,213	15.99	13.69	15.99	5.68	1.19	5.61
Indiana	4,286	27.11	23.09	27.06	-15.93	2.73	-13.07
Iowa	1,667	15.44	13.17	15.46	-9.66	4.72	-5.23
Kansas	1,488	16.08	13.78	16.10	8.20	4.43	6.71
Kentucky	3,166	14.61	12.64	14.63	-2.99	2.00	-2.44
Louisiana	2,403	16.08	14.30	16.09	-0.96	1.13	-0.83
Maine	463	17.66	15.13	17.69	27.35	24.83	5.90
Maryland	4,949	20.48	16.97	20.47	7.03	1.41	6.87
Massachusetts	2,655	12.29	10.94	12.31	9.75	2.82	8.76
Michigan	9,776	22,27	16.44	22.26	11.48	1.42	11.12
Minnesota	4,526	15.26	12.52	15.27	10.11	3.75	8.46
Mississippi	999	17,73	15.87	17.74	-3.26	3.08	-2,05
Missouri	6,231	26.20	20.70	26.17	15.00	2.40	13.63
Montana	307	20.53	16.56	20.45	-117.11	92.15	-2.48
Nebraska	1,355	16.60	16.02	16.63	13.22	9.91	6.60
Nevada	976	15.67	14.15	15.71	2.57	8.31	3.08
NewHampshire	1,325	15.48	12.10	15.50	-4.98	10.24	0.81
NewJersey	4,446	13.89	13.24	13.90	4.64	1.58	4.57
NewMexico	484	18.53	14.48	18.54	-35.21	21.06	-1.39
New York	7,892	16.51	14.66	16.52	10.50	1.08	10.31
NorthCarolina	4,061	20.58	16.81	20.57	6.99	1.78	6.74
NorthDakota	424	20.03	17.76	19.97	8.97	42.73	3.79
Ohio	8,343	17.49	14.27	17.49	7.10	1.22	6.98
Oklahoma	3,445	26.45	20.96	26.39	7.29	4.41	6.09
Pennsylvania	6,227	20.80	18.50	20.79	-4.34	2.29	-3.49
RhodeIsland	785	19.07	15.77	19.07	35.78	15.56	9.30
SouthCarolina	4,141	28.55	22.12	26.49	-11.68	3.03	-9.01
SouthDakota	429	15.55	12.81	15.62	-12.56	10.26	-1.54
Tennessee	2,418	16.27	15.40	16.28	0.94	1.60	1.09
Texas	7,377	16.04	16.51	16.05	-2.25	1.38	-2.01
Utah	1,201	27.89	22.96	27.67	-34.32	51.98	1.21
Vermont	165	14.83	13.09	15.05	6.78	33.00	3.69
Virginia	9,030	17.73	15.09	17.73	6.53	1.71	6.34
WestVirginia	600	18.38	13.69	18.39	7.29	6.96	5.28
Wisconsin	3,728	16.62	13.80	16.63	0.83	1.99	1.05
Wyoming	286	20.65	13.15	20.59	17.90	44.06	4.35

Notes: Columns 5-7 (Disparity) correspond to the coefficients on the interaction between a state fixed effect and the "Fraction Black" variable from the voter-level regression of wait time on the full set of state fixed effects and the interaction of those fixed effects with "Fraction Black", omitting the constant and clustering standard errors at the polling place level. Column 7 provides empirical-Bayes-adjusted estimates of these state-level disparities to account for measurement error. Similarly, Column 4 provides empirical-Bayes-adjusted estimates of the unadjusted state-level means shown in Column 2.

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (1)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
		Una	djusted	Bayesian	Unad	justed	Bayesian
State & District	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
Alabama 01	518	22.38	16.63	22.28	-4.95	5.06	-3.40
Alabama 02	689	21.76	15.48	21.70	-4.26	6.77	-2.14
Alabama 03	468	22.66	17.40	22.53	10.10	8.05	6.66
Alabama 04	272	21.06	15.10	20.95	-1.92	8.59	-0.16
Alabama 05	956	22.05	17.49	21.99	13.94	5.80	10.64
Alabama 06	1,061	23.91	17.42	23.83	4.86	5.08	4.20
Alabama 07	446	27.49	19.78	27.09	-0.86	5.06	-0.23
Arizona 01	192	16.16	14.06	16.30	-10.97	13.22	-2.41
Arizona 02	193	20.02	20.16	19.88	54.76	59.49	3.49
Arizona 03	150	23.88	19.66	23.24	-75.87	39.55	-2.54
Arizona 04	226	18.28	15.76	18.30	-28.90	28.87	-1.12
Arizona 05	375	21.59	19.48	21.44	-14.55	68.23	1.57
Arizona 06	252	21.37	19.95	21.16	76.05	39.51	6.25
Arizona 07	133	23.03	18.27	22.50	9.03	5.27	7.34
Arizona 08	334	19.98	18.04	19.92	-6.32	16.88	-0.03
Arizona 09	214	23.97	20.95	23.44	-36.35	24.47	-3.11
Arkansas 01	127	19.85	16.68	19.72	-2.12	8.10	-0.39
Arkansas 02	415	20.80	17.22	20.72	1.72	3.43	1.75
Arkansas 03	234	23.63	20.17	23.20	14.72	47.25	2.50
Arkansas 04	131	23.13	19.22	22.54	-5.72	11.96	-0.98
California 01	220	16.17	13.87	16.28	5.56	83.94	2.02
California 02	125	16.96	15.52	17.12	-53.21	35.46	-1.90
California 03	264	19.31	14.91	19.28	0.84	8.83	1.36
California 04	290	18.73	18.47	18.73	-31.90	69.72	1.19
California 05	184	18.76	16.51	18.75	16.49	4.45	13.83
California 06	205	18.03	15.69	18.07	2.43	10.04	2.18
California 07	287	17.66	15.64	17.70	-2.79	12.09	0.16
California 08	164	23.89	21.22	23.21	51.09	34.65	5.53
California 09	257	16.83	14.00	16.90	18.14	11.60	8.40
California 10	247	16.91	14.61	16.99	27.82	28.69	4.57
California 11	274	18.64	15.72	18.64	6.48	7.40	4.75
California 12	145	17.46	20.08	17.62	17.74	29.13	3.51
California 13	133	21.35	20.38	20.96	7.39	8.95	4.81
California 14	174	21.43	18.91	21.15	-32.29	39.81	0.00
California 15	253	18.08	15.41	18.11	2.37	11.02	2.13
California 16	175	20.32	18.58	20.16	36.56	16.42	10.59
California 17	219	17.76	16.05	17.81	7.62	35.34	2.36
California 18	220	19.29	16.45	19.25	-35.51	33.45	-0.94
California 19	205	17.95	16.88	18.00	-17.27	36.32	0.67
California 19 California 20	112	19.68	18.48	19.54	89.54	19.14	19.24
California 20	74	17.97	14.37	18.06	-6.19	16.92	0.01

Notes: Columns 5-7 (Disparity) correspond to the coefficients on the interaction between a congressional district fixed effect and the "Fraction Black" variable from the voter-level regression of wait time on the full set of congressional district fixed effects and the interaction of those fixed effects with "Fraction Black", omitting the constant and clustering standard errors at the polling place level, Column 7 provides empirical-Bayes-adjusted estimates of these congressional-district-level disparities to account for measurement error. Similarly, Column 4 provides empirical-Bayes-adjusted estimates of the unadjusted congressional-district-level means shown in Column 2.

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (2)

	(1)	(2)	(3) djusted	(4) Bayesian	(5)	(6) justed	(7) Bayesian
C	**			·			
State & District	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
California 22	285	21.97	18.49	21.77	-63.14	24.93	-6.38
California 23	268	18.79	13.90	18.79	7.52	14.14	3.67
California 24	171	20.40	16.93	20.25	122.44	73.82	4.45
California 25	348	22.55	17.37	22.37	31.20	12.57	12.49
California 26	275	20.32	18.65	20.21	-7.38	22.44	0.53
California 27	214	19.71	15.37	19.65	17.63	11.57	8.21
California 28	189	22.92	19.69	22.49	-3.66	52.23	1.76
California 29	161	27.40	21.16	26.25	4.99	47.28	2.09
California 30	271	22.53	17.21	22.31	22.10	27.85	4.09
California 31	78	26.65	22.08	24.63	43.66	47.82	3.70
California 32	196	21.07	16.94	20.89	7.75	30.66	2.48
California 33	234	24.59	20.65	24.06	-39.32	28.35	-2.29
California 34	121	23.55	19.86	22.81	9.87	38.17	2.44
California 35	259	22.50	17.19	22.28	1.54	40.33	1.93
California 36	250	23.53	18.64	23.19	27.06	16.95	7,93
California 37	162	24.20	20.23	23.54	7.83	6.36	5.99
California 38	188	19.75	16.63	19.67	23.97	46.88	2.91
California 39	286	20.45	16.40	20.36	-61.49	31.34	-3.53
California 40	129	21.28	16.00	21.02	-42.47	23,12	-4.50
California 41	308	20.42	15.64	20.35	24.92	14.17	9.02
California 42	496	21.04	17.86	20.96	27.76	27.67	4.73
California 43	177	23.39	18.27	22.95	0.99	5.21	1.22
California 44	119	24.61	19.30	23.75	-20.00	6.73	-12.57
California 45	378	20.62	15.45	20,55	-26.77	22.53	-2.40
California 46	154	26.46	24.46	25.10	51.88	125.13	2.48
California 47	208	18.78	14.73	18.78	1.43	10.22	1.72
California 48	277	21.19	15.79	21.07	-47.61	40.00	-0.85
California 49	291	21.07	17.12	20.94	-12.97	67.91	1.61
California 50	357	18.31	15.20	18.32	51.96	34.81	5.56
California 51	141	22.20	19.01	21.77	0.06	9.88	1.06
California 52	286	20.97	19.78	20.81	103.50	55.78	5.23
California 53	239	17.21	14.28	17.28	20.12	19.98	5.31
Connecticut 01	590	10.91	10.57	10.99	4.77	2.59	4.57
Connecticut 02	529	11.38	10.97	11.47	-4.51	5.84	-2.71
Connecticut 03	508	12.60	13.40	12.71	18.98	7.79	12.06
Connecticut 04	545	13.67	12.75	13.75	16.69	6.49	11.94
Connecticut 05	550	13.37	14.39	13.48	20.93	9.29	11.57
Delaware 01	688	11.91	11.68	11.98	4.85	2.51	4.66
DistrictofColumbia 01	179	27.49	22.94	26.27	8.38	4.57	7.15
Florida 01	321	16.25	13.98	16.33	8.88	4.62	7.53
Florida 02	173	14.52	12.70	14.72	3.44	5.89	3.02

Notes: Columns 5-7 (Disparity) correspond to the coefficients on the interaction between a congressional district fixed effect and the "Fraction Black" variable from the voter-level regression of wait time on the full set of congressional district fixed effects and the interaction of those fixed effects with "Fraction Black", omitting the constant and clustering standard errors at the polling place level. Column 7 provides empirical-Bayes-adjusted estimates of these congressional-district-level disparities to account for measurement error. Similarly, Column 4 provides empirical-Bayes-adjusted estimates of the unadjusted congressional-district-level means shown in Column 2

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (3)

State & District	(1) N	(2)	(3)	(4)	(5)	(6)	(7)
		Unadjusted		Bayesian	Unadjusted		Bayesian
		Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparit
Florida 03	288	17.20	15.61	17.27	0.10	11.53	1.21
Florida 04	285	13.07	10.86	13.20	-0.64	9.89	0.72
Florida 05	170	13.69	13.61	13.96	0.13	5.41	0.58
Florida 06	299	17.94	15.36	17.97	8.52	7.08	6.15
Florida 07	277	15.61	13.57	15.72	-3.66	12.73	-0.03
Florida 08	341	15.50	14.66	15.60	0.95	4.51	1.14
Florida 09	292	18.28	15.31	18.30	-18.70	7.96	-10.09
Florida 10	249	19.59	15.15	19.55	-5.24	4.70	-3.80
Florida 11	300	16.23	12.74	16.30	-8.30	8.83	-3.50
Florida 12	499	17.85	13.74	17.87	-1.81	16.83	1.05
Florida 13	261	18.75	15.52	18.75	5.58	5.05	4.76
Florida 14	215	17.35	13.36	17.40	-0.79	4.16	-0.34
Florida 15	397	17.41	13.34	17.44	-0.17	8.50	0.79
Florida 16	346	17.68	14.68	17.71	20.91	14.74	7.48
Florida 17	261	16.23	14.24	16.33	18.88	15.56	6.52
Florida 18	304	19.42	17.48	19.38	-3.28	11.49	-0.15
Florida 19	215	18.26	16.86	18.28	22.18	15.83	7.28
Florida 20	152	20.92	18.13	20.68	-6.21	6.94	-3.33
Florida 21	348	20.65	17.86	20.56	-5.90	5.20	-4.06
Florida 22	305	20.27	17.63	20.18	9.94	9.64	5.86
Florida 23	248	23.11	19.70	22.76	6.53	13.91	3.40
Florida 24	120	21.20	16.45	20.92	6.95	6.19	5.44
Florida 25	193	22.54	18.68	22.19	-30.83	36.47	-0.22
Florida 26	173	18.64	14.80	18.65	21.82	8.50	12.90
Florida 27	138	22.97	20.99	22.33	12.87	15.71	4.86
Georgia 01	291	25.32	20.86	24.82	8.96	6.85	6.53
Georgia 02	255	15.21	12.71	15.32	5,79	3.11	5.41
Georgia 03	385	16.06	14.22	16.13	-3.36	3.20	-2.81
Georgia 04	294	20.11	18.03	20.03	-0.85	3.78	-0.46
Georgia 05	273	23.84	19.13	23.49	-11.33	3.36	-9.82
Georgia 06	644	17.45	15.59	17.48	3.30	5.60	2.95
Georgia 07	676	28.59	24.64	28.12	31.24	9.64	16.26
Georgia 08	207	15.55	11.80	15.66	-9.62	5.87	-6.37
Georgia 09	324	16.29	12.35	16.35	-1.94	11.15	0.33
Georgia 09 Georgia 10	316	21.63	20.05	21.44	10.10	10.72	5.51
Georgia 11	655	18.85	15.42	18.84	14.01	4.98	11.37
	199	14.38	13.10	14.57	2.04	3.00	2.03
Georgia 12 Georgia 13	310	23.77			6.10	7.85	4.40
			20.21	23.43			
Georgia 14	229	15.10	12.00	15.22	2.32	7.38	2.18
Idaho 01	665	20.07	14.84	20.04	-15.27	23.49	-0.48

Notes: Columns 5-7 (Disparity) correspond to the coefficients on the interaction between a congressional district fixed effect and the "Fraction Black" variable from the voter-level regression of wait time on the full set of congressional district fixed effects and the interaction of those fixed effects with "Fraction Black", omitting the constant and clustering standard errors at the polling place level. Column 7 provides empirical-Bayes-adjusted estimates of these congressional-district-level disparities to account for measurement error. Similarly, Column 4 provides empirical-Bayes-adjusted estimates of the unadjusted congressional-district-level means shown in Column 2

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (4)

	(1)	(2)	(3) diretod	(4) Bayesian	(5) Unad	(6)	(7) Bayesian
		Unadjusted		· ·	Unadjusted		· ·
State & District	N	Mean	Std Dev		Disparity		Adjusted Disparity
Illinois 01	295	17.07	14.99	17.14	6.56	2.83	6.17
Illinois 02	224	18.22	14.32	18.24	4.82	2.60	4.61
Illinois 03	272	18.10	13.38	18.12	11.08	11.55	5.61
Illinois 04	113	20.94	17.38	20.65	-48.99	23.93	-5.03
Illinois 05	183	22.94	20.49	22.47	32.84	69.70	2.65
Illinois 06	546	15.67	14.82	15.73	66.64	41.00	5.47
Illinois 07	174	22.46	20.80	22.01	1.61	5.42	1.69
Illinois 08	412	16.28	11.54	16.32	-17.80	8.66	-8.74
Illinois 09	270	17.33	13.99	17.38	-5.20	11.30	-0.98
Illinois 10	416	16.49	13.66	16.54	19.07	14.37	7.12
Illinois 11	588	14.74	11.43	14.79	7.47	7.64	5.28
Illinois 12	366	13.75	11.24	13.84	7.27	3.51	6.62
Illinois 13	403	15.10	13.22	15.18	-5.28	4.02	-4.16
Illinois 14	669	14.04	11.85	14.09	-0.57	12.51	1.04
Illinois 15	222	14.04	12.16	14.20	2.33	4.75	2.26
Illinois 16	361	14.90	13.19	14.99	19.88	7.84	12.54
Illinois 17	210	16.57	14.09	16.67	10.21	9.22	6.17
Illinois 18	488	14.03	11.03	14.10	5.18	9.26	3.59
Indiana 01	289	16.18	15.27	16.28	2.35	3.80	2.29
Indiana 02	484	26.12	19.25	25.82	-25.16	7.96	-13.85
Indiana 03	588	29.81	23.12	29.29	-24.60	11.62	-8.58
Indiana 04	412	30.73	24.71	29.83	-10.91	25.30	0.35
Indiana 05	823	38.27	29.21	37.23	-65.07	10.93	-26.63
Indiana 06	329	22.17	17.77	22.00	6.34	16.75	3.02
Indiana 07	532	23.76	21.34	23.53	-14.32	9.25	-6.33
Indiana 08	324	21.95	16.61	21.81	3.32	4.29	3.08
Indiana 09	505	20.12	16.81	20.08	-14.71	19.85	-1.15
Iowa 01	368	14.52	13.46	14.62	-18.53	6.90	-11.36
lowa 02	374	15.60	13.09	15.67	-17.36	9.45	-7.67
lowa 03	610	15.89	12.45	15.92	-6.02	7.23	-3.06
Iowa 04	315	15.49	14.22	15.60	34.82	28.39	5.33
Kansas 01	220	15.96	13.53	16.08	-34.21	26.88	-2.12
Kansas 02	305	16.43	14.54	16.51	-0.77	9.67	0.63
Kansas 03	582	14.85	14.88	14.92	11.41	8.84	6.98
Kansas 04	381	17.76	11.17	17.78	9.70	4.91	8.04
Kentucky 01	277	12.69	9.34	12.79	2.75	4.87	2.58
Kentucky 02	627	15.25	13.04	15.30	21.00	20.37	5.36
Kentucky 03	775	11.65	9.17	11.69	1.08	1.73	1.11
Kentucky 04	720	17.54	14.65	17.55	5.64	16.91	2.84
Kentucky 05	170	15.06	15.60	15.32	-6.24	30.51	1.21
Kentucky 06	597	15.04	12.94	15.09	1.07	6.59	1.36

Notes: Columns 5-7 (Disparity) correspond to the coefficients on the interaction between a congressional district fixed effect and the "Fraction Black" variable from the voter-level regression of wait time on the full set of congressional district fixed effects and the interaction of those fixed effects with "Fraction Black", omitting the constant and clustering standard errors at the polling place level. Column 7 provides empirical-Bayes-adjusted estimates of these congressional-district-level disparities to account for measurement error. Similarly, Column 4 provides empirical-Bayes-adjusted estimates of the unadjusted congressional-district-level means shown in Column 2

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (5)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
			djusted	Bayesian		justed	Bayesian
State & District	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
Louisiana 01	547	16.39	15.97	16.45	9.22	7.71	6.30
Louisiana 02	350	17.31	15.47	17.35	1.29	3.86	1.39
Louisiana 03	506	15.84	13.13	15.89	-5.65	2.82	-5.03
Louisiana 04	370	15.92	14.27	15.99	-4.23	1.97	-3.97
Louisiana 05	148	17.86	15.38	17.92	-5.16	3.66	-4.22
Louisiana 06	482	14.66	12.05	14.72	-1.84	3.65	-1.34
Maine 01	334	17.49	13.91	17.53	16.58	20.95	4.46
Maine 02	129	18.09	17.96	18.16	142.74	176.10	3.04
Maryland 01	705	15.88	13.13	15.91	4.40	5.27	3.82
Maryland 02	674	26,57	20.54	26.31	5.70	4.31	5.05
Maryland 03	672	24.44	19.76	24.26	-4.15	9.02	-1.23
Maryland 04	555	23.69	17.87	23.54	-1.60	3.78	-1.10
Maryland 05	583	18.00	14.15	18.01	0.32	2.70	0.44
Maryland 06	695	16.30	12.97	16.33	9.31	6.14	7.11
Maryland 07	445	22.49	18.25	22.34	9.23	3.78	8.22
Maryland 08	620	17.48	13.89	17.50	13.27	6.79	9.39
Massachusetts 01	270	12.42	13.01	12.62	9.62	13.56	4.46
Massachusetts 02	376	12.07	9.65	12.16	2.97	7.51	2.58
Massachusetts 03	355	11.78	10.83	11.90	13.01	14.38	5.29
Massachusetts 04	278	12.33	9.45	12.44	3.45	9.43	2.70
Massachusetts 05	241	11.70	8.88	11.82	6.74	4.49	5.85
Massachusetts 06	336	10.89	9.33	11.00	22.43	12.30	9.54
Massachusetts 07	179	18.02	15.84	18.07	-4.32	4.49	-3.15
Massachusetts 08	331	12.77	11.77	12.90	10.33	9.15	6.26
Massachusetts 09	289	11.09	9.32	11.21	49.75	26.89	7.34
Michigan 01	316	19.24	15.51	19.22	-18,95	25.02	-0.71
Michigan 02	777	19.66	13.62	19.65	2.35	8.66	2.17
Michigan 03	667	21.97	15.90	21.90	5.80	6.72	4,50
Michigan 04	450	20.28	15.21	20.23	-13.66	7.45	-7.64
Michigan 05	589	23.29	17.00	23.17	7.51	3.78	6.73
Michigan 06	559	24.80	17.53	24.62	3.54	6.79	3.00
Michigan 07	603	20.62	14.20	20.59	11.11	8.62	6,94
Michigan 08	1,022	21.62	16.50	21.58	-2.36	8.49	-0.42
Michigan 09	874	20.22	14.19	20.20	2.14	5.99	2.09
Michigan 10	854	18.98	13.54	18.98	8.32	7.08	6.02
Michigan 11	1,154	23.13	16.65	23.07	20.40	11.38	9.46
Michigan 12	722	24.32	17.89	24.19	18.07	11.31	8.56
Michigan 13	538	26.03	20.30	25.73	13.96	3.30	12.64
Michigan 14	651	28.15	19.34	27.86	6.67	3.30	6.16
Minnesota 01	347	14.31	10.08	14.38	-2.88	8.75	-0.64
MITTINGSOFS OF	041	14.01	10.00	14.00	-2.00	0.10	-0.04

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (6)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
		Una	djusted	Bayesian		justed	Bayesian
State & District	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
Minnesota 03	874	16.80	13.69	16.82	24.64	12.34	10.33
Minnesota 04	642	16.19	13.73	16.23	-0.06	4.62	0.33
Minnesota 05	384	17.50	16.45	17.54	-0.72	6.16	0.08
Minnesota 06	855	14.43	11.08	14.47	-1.96	8.82	-0.13
Minnesota 07	235	14.44	13.34	14.60	20.56	38.51	3.08
Minnesota 08	286	15.02	10.84	15.10	63.07	24.95	9,77
Mississippi 01	332	16.95	13.65	17.00	-8.22	6.37	-5.03
Mississippi 02	153	16.29	15.70	16.48	8.30	5.66	6.61
Mississippi 03	248	14.71	13.86	14.87	-6.50	3.49	-5.47
Mississippi 04	266	22.34	19.06	22.08	-4.54	5.30	-2.97
Missouri 01	634	29.49	20.63	29.11	10.67	3.11	9.81
Missouri 02	1,408	22.82	16.61	22.78	2.38	13.41	2.10
Missouri 03	814	20.43	16.33	20.40	18.00	14.16	6.90
Missouri 04	422	20.65	17.37	20.57	31.80	20.47	7,25
Missouri 05	830	40.97	27.05	39.95	-2.95	6,50	-1.36
Missouri 06	980	30.85	23.01	30.51	26.29	28.53	4.43
Missouri 07	906	20.72	14.54	20.70	75.62	32.40	7.98
Missouri 08	237	17.03	12.86	17.09	-13.13	10.37	-4.86
Montana 01	307	20.53	16.56	20.45	-117.11	92.37	0.17
Nebraska 01	485	17.52	17.83	17.56	78.02	34.86	7.43
Nebraska 02	615	16.06	15.14	16.11	8.69	10.25	5.04
Nebraska 03	255	16.17	14.35	16.27	-10.56	22.53	0.06
Nevada 01	1.63	15.01	12.14	15.18	-13.11	10.09	-5.06
Nevada 02	291	16.06	14.62	16.16	-2.79	19.71	1.06
Nevada 03	294	14.15	11.79	14.26	-5.37	14.39	-0.25
Nevada 04	228	17.62	17.18	17.69	3.20	12.74	2.40
NewHampshire 01	755	16.16	12.77	16.19	-3.35	11.18	-0.25
NewHampshire 02	570	14.58	11.09	14.62	-8.54	21.88	0.29
NewJersey 01	432	12.18	10.03	12.26	3.56	3.71	3.34
NewJersey 02	324	14.45	12.68	14.56	12.78	7.42	8.63
NewJersey 03	411	13.06	14.13	13.21	-3.95	2.49	-3.56
NewJersey 04	458	11.17	9.65	11.25	-3.30	5.38	-2.01
NewJersey 05	415	13.93	13.78	14.04	-7.09	9.67	-2.45
NewJersey 06	426	13.98	13.25	14.09	13.04	9.82	7.27
NewJersey 07	566	14.28	13.59	14.35	12.02	11.34	6.07
NewJersey 08	64	21.06	21.45	20.39	9.94	10.50	5.52
NewJersey 09	252	13.16	11.61	13.32	16.17	5.74	12.31
NewJersey 10	194	18.30	14.51	18.32	-5.83	4.06	-4.60
NewJersey 11	447	12.84	14.02	12.98	51.94	20.36	10.90
NewJersey 12	457	16.47	14.40	16.53	-9.00	3.25	-7.83
newselsey 12	401	10.47	14.40	10.00	-9.00	0.20	-1.00

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (7)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
		Una	djusted	Bayesian	Unad	ljusted	Bayesian
State & District	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparit
NewMexico 02	160	17.94	14.56	17.99	-35.96	32.87	-1.06
NewMexico 03	153	17.93	14.79	17.98	4.21	69.60	2.01
New York 01	743	14.97	13.46	15.02	15.31	20.04	4.41
NewYork 02	615	13.90	11.93	13.95	17.19	4.66	14.19
New York 03	469	13.35	10.60	13.41	22.03	9.53	11.87
New York 05	379	25.07	18.19	24.78	2.50	3.10	2.45
New York 06	327	18.98	14.34	18.97	24.18	12.33	10.17
NewYork 07	147	19.50	16.49	19.43	17.89	20.99	4.67
New York 08	260	20.29	15.11	20.21	4.75	3.28	4.45
NewYork 09	218	22.81	17.72	22.50	4.34	3.09	4.11
NewYork 10	236	19.51	15.92	19.46	-24.72	22.98	-1.96
NewYork 11	413	14.70	11.88	14.77	-0.13	1.87	-0.05
NewYork 12	277	20.29	18.41	20.19	-19.39	7.52	-11.07
NewYork 13	145	22.41	18.98	21.97	6.72	6.31	5.24
NewYork 14	205	22.52	19.45	22.17	-3.87	16.19	0.47
New York 15	174	20.66	16.69	20.50	-0.55	7.67	0.45
New York 16	73	21.98	17.93	21.34	-9.23	8.91	-3.94
New York 17	159	14.83	13.00	15.04	-5.32	10.97	-1.13
New York 18	402	13.87	11.36	13.95	3.31	4.08	3.10
NewYork 19	216	14.32	11.77	14.46	10.70	12.73	5.06
New York 20	291	11.98	11.19	12.14	5,93	11.29	3,59
New York 21	141	14.79	15.69	15.12	-8.80	16.68	-0.66
New York 22	255	14.41	13.42	14.57	-8.62	16.68	-0.62
New York 23	135	12.04	9.72	12.28	38.25	22.84	7.34
New York 24	535	16.70	14.23	16.74	11.57	4.89	9.52
NewYork 25	545	15.25	15.10	15.32	0.59	6.17	1.00
New York 26	253	13.08	13.02	13.28	6.15	5.45	5.10
New York 27	279	13.50	11.90	13.63	44.88	36.55	4.80
NorthCarolina 01	178	19.49	15.17	19.44	-4.35	5.10	-2.91
NorthCarolina 02	558	24.58	19.29	24.37	-0.10	7.07	0.64
NorthCarolina 03	168	19.24	16.62	19.19	-8.91	7.76	-4.51
NorthCarolina 04	418	22.62	18.38	22.45	19.61	7.05	13.26
NorthCarolina 05	263	18.70	16.35	18.70	15.29	8.64	9.19
NorthCarolina 06	306	18.30	13.12	18.31	3.74	5.27	3.31
NorthCarolina 07	239	17.63	13.44	17.67	3.19	6.32	2.81
NorthCarolina 08	381	19.74	15.93	19.70	0.04	7.30	0.76
NorthCarolina 09	372	20.20	15,74	20.15	4.74	6.73	3.80
NorthCarolina 10	256	15.44	12.51	15.54	11.24	12.18	5.44
NorthCarolina 11	176	17.66	16.80	17.74	-31.10	19.22	-4.53
NorthCarolina 12	405	25.52	19.28	25.19	3.11	5.23	2.84
NorthCarolina 13	341	19.15	15.76	19.13	-3.33	3.56	-2.67

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (8)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
		Una	djusted	Bayesian	Unad	justed	Bayesian
State & District	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
NorthDakota 01	424	20.03	17.76	19.97	8.97	42.83	2.31
Ohio 01	672	20.96	14.85	20.92	11.17	3.15	10.23
Ohio 02	589	18.73	14.07	18.73	6.73	6.18	5.29
Ohio 03	542	22.11	15.98	22.02	1.51	3.70	1.57
Ohio 04	310	12.09	9.82	12.20	-8.88	3.50	-7.57
Ohio 05	575	15.42	13.03	15.47	7.90	9.38	4.94
Ohio 06	260	15.19	11.01	15.27	35.86	21.81	7.38
Ohio 07	368	15.30	13.41	15.39	-13.77	7.85	-7.32
Ohio 08	669	13.78	11.89	13.84	-8.52	3.29	-7.37
Ohio 09	383	16.21	10.98	16.26	8.64	2.74	8.12
Ohio 10	563	24.47	19.55	24.26	-13.94	3.89	-11.62
Ohio 11	331	19.02	14.19	19.01	4.47	2.56	4.30
Ohio 12	774	16.74	14.03	16.77	18.83	13.19	7.67
Ohio 13	456	16.07	12.94	16.12	17.79	6.04	13.17
Ohio 14	507	14.42	11.07	14.48	-11.11	6.59	-6.81
Ohio 15	701	19.05	15.20	19.04	19.26	15.02	6.87
Ohio 16	643	15.83	13.34	15.87	11.80	14.78	4.81
Oklahoma 01	968	24.53	19.67	24.41	1.42	8.22	1.65
Oklahoma 02	192	20.49	17.37	20.34	32.36	12.17	13.37
Oklahoma 03	591	25.77	20.51	25.51	11.18	29.58	2.84
Oklahoma 04	728	28.65	22.58	28.29	-0.68	14.28	1.16
Oklahoma 05	966	28.31	21.48	28.07	4.67	5.89	3.91
Pennsylvania 01	132	16.60	17.65	16.83	11.11	4.88	9.17
Pennsylvania 02	141	18.99	20.51	18.95	-0.32	4.89	0.16
Pennsylvania 03	292	19.04	17.57	19.02	-34.09	14.26	-9.04
Pennsylvania 04	479	26.11	22.47	25.71	-3.17	19.10	0.94
Pennsylvania 05	209	24.52	21.54	23.89	118.97	40.17	8.54
Pennsylvania 06	571	21.79	19.16	21.68	0.05	18.90	1.57
Pennsylvania 07	512	17.64	17.11	17.67	-14.90	7.70	-8.13
Pennsylvania 08	821	22.55	18.29	22.47	-27.55	11.57	-9.82
Pennsylvania 09	173	18.31	14.70	18.34	-18.23	16.57	-3.01
Pennsylvania 10	214	19.63	16.74	19.57	3.65	25.74	2.16
Pennsylvania 11	279	23.60	22.15	23.17	-15.56	18.16	-1.80
Pennsylvania 12	339	19.01	17.50	18.99	6.13	30.83	2.33
Pennsylvania 13	326	17.68	17.50	17.73	1.25	6.56	1.48
Pennsylvania 14	179	16.09	13.24	16.22	7.10	4.97	5.98
Pennsylvania 15	469	23.32	18.29	23.15	-44.29	19.63	-6.81
Pennsylvania 16	405	17.49	14.55	17.52	8.14	15.10	3.70
Pennsylvania 17	263	22.21	16.99	22.01	-10.02	8.06	-4.95
Pennsylvania 18	423	20.23	17.95	20.16	-20.47	24.44	-1.01
Rhodelsland 01	354	21.33	18.65	21.19	37.64	21.09	7.98

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (9)

	(1)	(2)	(3) djusted	(4) Bayesian	(5)	(6) justed	(7) Bayesian
				v			
State & District	N	Mean	Std Dev	Adjusted Mean	Disparity		Adjusted Disparit
RhodeIsland 02	431	17.22	12.66	17.25	9.56	14.58	4.21
SouthCarolina 01	715	34.44	25.83	33.68	-26.27	12.07	-8.75
SouthCarolina 02	737	23.82	20.64	23.66	-6.41	6.24	-3.86
SouthCarolina 03	449	20.12	17.60	20.06	-12.50	8.35	-6.14
SouthCarolina 04	749	25.99	20.53	25.77	-2.18	8.35	-0.36
SouthCarolina 05	588	22.77	19.20	22.63	-16.31	7.17	-9.60
SouthCarolina 06	315	23.37	21.02	23.04	3.53	8.24	2.85
SouthCarolina 07	588	31.46	23.78	30.82	-31.43	7.45	-18.56
SouthDakota 01	429	15.55	12.81	15.62	-12.56	10.28	-4.67
Tennessee 01	286	17.26	15.53	17.32	-18.24	23.23	-0.95
Tennessee 02	279	15.30	14.64	15.43	8.72	9.45	5.33
Tennessee 03	344	19.39	15.95	19.36	5.48	6.74	4.29
Tennessee 04	264	13.85	12.34	13.99	-3.60	9.93	-0.68
Tennessee 05	287	15.01	14.75	15.15	4.55	3.88	4.17
Tennessee 06	301	18.68	18.16	18.67	28.58	7.90	17.58
Tennessee 07	242	14.65	12.59	14.78	2.04	6.05	2.01
Tennessee 08	241	15.66	17.61	15.86	4.04	5.98	3.44
Tennessee 09	174	14.68	14.20	14.91	1.92	3.37	1.93
Texas 01	114	13.75	12.06	14.07	1.53	10.89	1.78
Texas 02	228	14.21	17.46	14.51	14.14	14.17	5.70
Texas 03	355	14.12	16.41	14.29	8.47	11.24	4.65
Texas 04	160	12.83	11.02	13.06	-8.24	6.64	-4.85
Texas 05	162	16.39	19.22	16.64	-3.67	10.71	-0.50
Texas 06	285	14.22	12.10	14.34	0.09	4.40	0.42
Texas 07	246	13.22	15.83	13.51	-14.29	8.87	-6.65
Texas 08	270	15.85	16.40	16.00	-11.01	16.76	-1.18
Texas 09	134	16.33	17.47	16.59	-1.14	7.46	0.06
Texas 10	203	16.50	18.06	16.67	-0.80	8.69	0.47
Texas 11	156	15.75	17.36	16.02	12.40	27.92	3.06
Texas 12	246	13.24	13.18	13.44	6.08	11.82	3.56
Texas 13	164	16.22	18.19	16.47	-5.93	29.13	1.18
Texas 14	181	16.33	17.49	16.52	7.57	7,36	5.44
Texas 15	135	19.37	19.61	19.27	-48.73	17.28	-9.75
Texas 16	176	15.01	14.51	15.23	46.67	46.53	3.91
Texas 17	261	20.43	17.08	20.33	3.11	13.38	2.34
Texas 18	184	14.18	16.06	14.50	-6.57	4.66	-4.89
Texas 19	175	13.45	12.70	13.70	7.45	10.34	4.45
Texas 20	215	16.67	15.38	16.78	34.88	20.25	7.90
Texas 21	242	18.86	20.60	18.85	108.93	52.16	5.81
Texas 22	264	16.89	16.15	16.98	18.52	9.50	10.16
Texas 23	133	22.56	22.39	21.90	64.90	56.35	3.95

Table C.2: Congressional District-Level Measures of Wait Time and Disparities (10)

	(1)	(2)	(3) djusted	(4) Bayesian	(5)	(6) justed	(7) Bayesian
0	N.T			·			v
State & District Texas 24	N 236	Mean	Std Dev 14.04	Adjusted Mean 14.09	Disparity -2.55	Std Error 7.31	Adjusted Disparit
	217	13.88				10.40	
Texas 25			16.65	18.13	2.24		2.08
Texas 26	410	18.40	16.74	18.41	38.07	24.20	6.82
Texas 27	157	24.32	23.42	23.41	-75.44	24.77	-8.07
Texas 28	141	18.65	17.15	18.65	-7.88	16.05	-0.58
Texas 29	147	11.72	9.40	11.94	2.51	5.20	2.38
Texas 30	203	14.83	14.81	15.04	-6.35	4.16	-4.99
Texas 31	218	15.52	15.65	15.70	12.08	18.69	4.03
Texas 32	312	14.74	14.62	14.88	1.60	7.16	1.73
Texas 33	145	14.77	13.93	15.04	7.06	11.81	3.94
Texas 34	112	19.22	19.36	19.13	11.09	44.74	2.38
Texas 35	166	17.69	19.91	17.80	-13.70	8.79	-6.41
Texas 36	224	13.63	12.69	13.82	-9.44	7.10	-5.30
Utah 01	119	18.77	14.51	18.76	-57.57	9.26	-28.30
Utah 02	253	33.75	25.70	31.88	30.66	72.88	2.56
Utah 03	594	25.83	20.48	25.56	-158.01	192.90	0.80
Utah 04	235	31.41	26.84	29.59	63.87	87.85	2.95
Vermont 01	165	14.83	13.09	15.03	6.78	33.08	2.34
Virginia 01	1,053	16.08	13.81	16.10	-4.14	8.19	-1.52
Virginia 02	1,022	18.78	15.44	18.78	4.57	7.22	3.60
Virginia 03	674	21.25	19.32	21.17	-1.26	3.84	-0.80
Virginia 04	824	19.96	16.86	19.94	-0.56	4.08	-0.16
Virginia 05	535	17.89	13.99	17.90	15.11	7.00	10.42
Virginia 06	562	18.61	15.96	18.61	-7.10	8.88	-2.83
Virginia 07	1,049	20.08	15.48	20.07	-1.75	5.48	-0.81
Virginia 08	569	17.49	15.32	17.51	14.38	6.85	10.07
Virginia 09	444	16.52	15.36	16.58	2.08	12.75	2.00
Virginia 10	1,347	14.54	11.45	14.57	13.47	10.77	6.95
Virginia 11	951	15.98	13.55	16.00	14.18	5.49	11.07
WestVirginia 01	141	15.85	13.88	16.04	2.34	12.68	2.09
WestVirginia 02	333	19.50	12.00	19.48	7.08	7.20	5.19
WestVirginia 03	126	18.27	17,00	18.31	-7.86	27.65	0.90
Wisconsin 01	536	17.11	15.52	17.14	2.79	6.60	2.52
Wisconsin 02	525	16.82	14.17	16.86	14.09	15.11	5.37
Wisconsin 03	394	17.22	13.62	17.26	-0.27	23.26	1.64
Wisconsin 04	377	15.50	13.48	15.58	3.33	2.78	3.22
Wisconsin 05	662	15.67	13.22	15.71	-19.14	14.96	-4.06
Wisconsin 06	516	16.57	12.93	16.61	-32.77	18.73	-5.13
Wisconsin 07	261	17.58	13.78	17.62	-30.10	58.11	0.99
Wisconsin 08	455	17.15	13.44	17.18	7.23	17.75	3.13
VV ESCOTESTE UO	400	11.10	10,44	11.10	1.20	11.10	0.10

Table C.3: (100 Most Populous) County-Level Measures of Wait Time and Disparities (1)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
			Una	djusted	Bayesian	Unad	justed	Bayesian
County & State	Population	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
Alameda California	1,629,615	430	19.31	16.95	19.29	10.76	6.89	10.54
Allegheny Pennsylvania	1,229,605	572	19.02	16.73	19.01	-0.91	5.13	-0.91
BaltimoreCity Maryland	619,796	220	24.41	17.88	24.08	1.23	4.29	1.21
Baltimore Maryland	828,637	806	31.25	20.88	30.99	1.49	4.17	1.47
Bergen NewJersey	937,920	433	11.45	11.12	11.52	0.87	5.80	0.85
Bernalillo NewMexico	674,855	161	20.30	15.10	20.19	-42.40	28.36	-32.35
Bexar Texas	1,892,004	530	18.26	18.60	18.26	5.37	8.72	5.18
Bronx NewYork	1,455,846	355	20.59	16.59	20.52	-0.64	3.99	-0.65
Broward Florida	1,890,416	560	21.55	17.64	21.48	-0.08	4.67	-0.08
Bucks Pennsylvania	626,486	712	22.94	18.60	22.85	-31.53	13.08	-29.58
Clark Nevada	2,112,436	670	15.33	13.57	15.36	6.17	9.10	5.94
Cobb Georgia	739,072	759	20.29	17.14	20.26	5.06	5.35	4.99
Collin Texas	914,075	388	14.36	16.28	14.45	7.22	10.49	6.88
ContraCosta California	1,123,678	471	17.71	14.66	17.72	7.23	6.92	7.08
Cook Illinois	5,238,541	1,603	20.10	16.25	20.09	1.26	1.52	1.26
Cuyahoga Ohio	1,257,401	754	16.88	13.83	16.89	6.87	1.67	6.86
DC DistrictofColumbia	672,391	179	27.49	22.94	26.56	8.38	4.62	8.30
Dallas Texas	2,552,213	767	14.64	15.16	14.68	-2.28	2.11	-2.28
Davidson Tennessee	678,322	255	14.82	13.85	14.91	5.20	3.86	5.16
Dekalb Georgia	736,066	335	18.25	16.91	18.25	0.22	2.50	0.22
Denton Texas	781,321	346	18.62	16.93	18.60	21.07	24.12	16.94
DuPage Illinois	931,826	697	14.37	13.09	14.40	33.82	27.92	25.61
Duval Florida	912,043	275	12.62	11.77	12.72	6.00	5.98	5.90
ElPaso Texas	834,825	194	15.42	15.17	15.53	36.92	46.46	19.46
Erie NewYork	923,995	407	12.58	12.49	12.66	6.57	5.33	6.49
Essex Massachusetts	775,860	292	11.77	11.76	11.88	22.51	13.63	20.90
Essex NewJersey	800,401	293	17.52	16.33	17.54	-2.76	3.25	-2.75
Fairfax Virginia	1,142,004	1,262	14.75	12.45	14.77	24.18	6.77	23.73
Fairfield Connecticut	947,328	708	12.81	11.92	12.85	13.23	5.94	13.03
FortBend Texas	711,421	134	17.11	16.33	17.18	5.01	9.16	4.82
Franklin Ohio	1,253,507	1,238	20.93	16.17	20.91	4.54	3.21	4.52
Fresno Californía	971,616	291	19.79	16.96	19.73	14.02	14.65	12.85
Fulton Georgia	1,010,420	483	20.90	17.40	20.84	4.72	3.01	4.70
Gwinnett Georgia	889,954	779	30.16	24.64	29.82	17.67	7.87	17.22
Hamilton Ohio	808,703	654	22.33	15.89	22.27	7.05	3.25	7.02
Harris Texas	4,525,519	1,282	13.61	15.20	13.64	1.31	2.72	1.30
Hartford Connecticut	897,417	768	11.40	12.04	11.45	6.18	2.68	6.16
Hennepin Minnesota	1,224,763	1,063	17.54	14.92	17.55	10.20	6.47	10.02
Hidalgo Texas	839,539	119	20.06	20.08	19.84	1,032.15	431.93	15.63
Hillsborough Florida	1,351,087	468	18.05	14.63	18.05	0.87	5.04	0.85

Notes: Columns 6-8 (Disparity) correspond to the coefficients on the interaction between a county fixed effect and the "Fraction Black" variable from the voter-level regression of wait time on the full set of county fixed effects and the interaction of those fixed effects with "Fraction Black", omitting the constant and clustering standard errors at the polling place level. Column 7 provides empirical-Bayes-adjusted estimates of these congressional-district-level disparities to account for measurement error. Similarly, Column 5 provides empirical-Bayes-adjusted estimates of the unadjusted engressional-district-level means shown in Column 3. Column 2 displays the population of each listed county; we just show the 100 largest counties (by population in the 2017 American Community Survey's five-year estimates).

Table C.3: (100 Most Populous) County-Level Measures of Wait Time and Disparities (2)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
			Una	djusted	Bayesian	Unad	justed	Bayesian
County & State	Population	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
łudson NewJersey	679,756	10	17.93	21.48		5.01	154.65	
lackson Missouri	688,554	950	42.65	26.94	41.96	-7.08	6.63	-6.97
lefferson Alabama	659,460	854	26.41	18.03	26.29	1.94	2.58	1.94
lefferson Kentucky	764,378	833	12.25	10.49	12.28	-0.24	2.29	-0.24
Kent Michigan	636,376	646	22.67	16.64	22.60	6.91	7.33	6.75
Kern California	878,744	259	17.76	12.33	17.77	-23.78	9.84	-22.93
Kings NewYork	2,635,121	693	20.52	15.79	20.49	5.91	1.79	5.90
ake Illinois	704,476	522	16.03	13.07	16.06	22.98	12.30	21.62
Lee Florida	700,165	185	19.00	17.61	18.95	23.38	19.01	20.33
losAngeles California	10105722	2,719	22.62	18.41	22.60	4.23	2.87	4.21
Macomb Michigan	864,019	1,248	19.38	13.64	19.37	5.34	5.18	5.28
Maricopa Arizona	4,155,501	1,378	21.61	19.29	21.58	4.01	6.58	3.93
Marion Indiana	939,964	726	23.54	20.81	23.42	-15.18	7.67	-14.85
Mecklenburg NorthCarolina	1,034,290	574	25.05	18.44	24.90	5.25	4.28	5.20
Miami-Dade Florida	2,702,602	537	21.02	17.99	20.96	4.71	3.95	4.68
Middlesex Massachusetts	1,582,857	642	11.48	8.98	11.51	3.59	4.26	3.56
Middlesex NewJersev	837,288	558	16.95	15.04	16.97	1.01	10.70	0.93
Milwaukee Wisconsin	956,586	600	16.08	13.86	16.10	0.86	2.82	0.86
Monmouth NewJersey	627,551	448	11.00	9.89	11.06	-4.22	4.49	-4.20
Monroe NewYork	748,680	556	15.24	15.05	15.29	0.45	6.19	0.43
Montgomery Maryland	1,039,198	829	19.90	14.41	19.89	5.99	4.98	5.92
Montgomery Pennsylvania	818,677	714	20.81	18.54	20.76	7.95	10.09	7.61
NewHaven Connecticut	862,127	536	13.46	14.59	13.53	19.11	7.62	18.66
New York New York	1,653,877	524	20.49	18.31	20.43	2.73	5.26	2.69
Norfolk Massachusetts	694,389	290	12.04	9.28	12.11	3.30	4.86	3.26
Oakland Michigan	1,241,860	1,843	23.23	16.57	23.20	7.12	3.24	7.09
Ocean NewJersey	589,699	254	13.18	14.36	13.33	17.05	31.32	12.01
Oklahoma Oklahoma	774,203	975	28.88	21.65	28.69	5.21	5.89	5.12
Orange California	3,155,816	1,202	21.92	17.47	21.88	-19.00	22.43	-15.99
Orange Florida	1,290,216	443	19.13	14.99	19.11	-4.22	4.34	-4.20
PalmBeach Florida	1,426,772	662	20.87	18.95	20.82	-2.41	4.65	-2.40
Philadelphia Pennsylvania	1,569,657	286	16.08	18.40	16.16	3.75	3.58	3.72
ima Arizona	1,007,257	247	16.89	15.01	16.93	6.60	19.21	5.64
Pinellas Florida	949,842	396	19.59	16.05	19.55	2.99	5.16	2.95
Polk Florida	652,256	290	16.60	14.51	16.64	-5.28	6.03	-5.22
PrinceGeorge'S Maryland	905,161	547	21.76	16.30	21.70	-1.74	3.35	-1.74
Providence Rhodelsland	633,704	403	21.05	18.16	20.97	29.43	17.35	26.19
Queens New York	2,339,280	1,056	21.59	17.05	21.55	6.83	2.18	6.81
Riverside California	2,355,002	1,137	21.13	17.28	21.10	26.14	10.10	25.08
Sacramento California	1,495,400	482	17.83	15.87	17.84	0.98	7.73	0.93

Notes: Columns 6-8 (Disparity) correspond to the coefficients on the interaction between a county fixed effect and the "Fraction Black" variable from the voter-level regression of wait time on the full set of county fixed effects and the interaction of those fixed effects with "Fraction Black", omitting the constant and clustering standard errors at the polling place level. Column 7 provides empirical-Bayes-adjusted estimates of these congressional-district-level disparities to account for measurement error. Similarly, Column 5 provides empirical-Bayes-adjusted estimates of the unadjusted consonal-district-level means shown in Column 3. Column 2 displays the population of each listed county; we just show the 100 largest counties (by population in the 2017 American Community Survey's five-year estimates).

Table C.3: (100 Most Populous) County-Level Measures of Wait Time and Disparities (3)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
			Una	djusted	Bayesian	Unad	justed	Bayesian
County & State	Population	N	Mean	Std Dev	Adjusted Mean	Disparity	Std Error	Adjusted Disparity
SaltLake Utah	1,106,700	226	40.18	30.62	37.21	-15.85	85.33	-4.77
SanBernardino California	2,121,220	472	23.39	19.17	23.25	32.00	25.55	25.22
SanDiego California	3,283,665	1,085	19.22	16.80	19.21	23.30	10.77	22.24
SanFrancisco California	864,263	169	17.67	20.16	17.71	10.04	28.83	7.32
SanJoaquin California	724,153	172	16.75	15.40	16.81	27.33	15.04	25.00
SanMateo California	763,450	186	22.46	18.54	22.18	-17.39	45.89	-9.89
SantaClara California	1,911,226	534	17.89	16.58	17.89	-13.97	18.76	-12.37
Shelby Tennessee	937,847	319	14.83	14.95	14.92	1.24	2.65	1.23
StLouis Missouri	999,539	1,418	27.12	19.09	27.03	13.33	2.81	13.28
Suffolk Massachusetts	780,685	182	19.56	17.70	19.47	-3.33	4.98	-3.30
Suffolk NewYork	1,497,595	1,707	14.01	12.22	14.02	16.65	4.00	16.54
Tarrant Texas	1,983,675	708	14.34	13.51	14.38	3.86	4.44	3.82
Travis Texas	1,176,584	419	21.41	20.45	21.29	26.42	11.93	24.96
Tulsa Oklahoma	637,123	811	23.98	19.47	23.88	1.48	8.53	1.41
Ventura California	847,834	341	20.01	17.35	19.95	1.16	19.72	0.88
Wake NorthCarolina	1,023,811	720	24.40	19.21	24.29	14.55	6.45	14.30
Wayne Michigan	1,763,822	1,763	24.80	18.69	24.75	12.95	2.14	12.92
Westchester New York	975,321	25	10.84	6.59		168.62	52.87	
Will Illinois	687,727	638	13.23	10.48	13.26	7.03	5.00	6.96
Worcester Massachusetts	818,249	383	12.28	10.26	12.34	-0.89	8.09	-0.89

Notes: Columns 6-8 (Disparity) correspond to the coefficients on the interaction between a county fixed effect and the "Fraction Black" variable from the voter-level regression of wait time on the full set of county fixed effects and the interaction of those fixed effects with "Fraction Black", omitting the constant and clustering standard errors at the polling place level. Column 7 provides empirical-Bayes-adjusted estimates of these congressional-district-level disparities to account for measurement error. Similarly, Column 5 provides empirical-Bayes-adjusted estimates of the unadjusted congressional-district-level means shown in Column 3. Column 2 displays the population of each listed county; we just show the 100 largest counties (by population in the 2017 American Community Survey's five-year estimates).

The Downstream Consequences of Long Waits: How Lines at the Precinct Depress Future Turnout

Stephen Pettigrew*

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Abstract

Researchers have increasingly paid attention to the impact that the administrative component of elections has on voter behavior. Existing research has focused almost exclusively on the effect that legal changes—such as voter identification laws—have on turnout. This paper extends our understanding of the electoral process by exploring how one aspect of the precinct experience—standing in line to vote—can shape the turnout behavior of voters in subsequent elections. I demonstrate that for every additional hour a voter waits in line to vote, their probability of voting in the subsequent election drops by 1 percentage point. To arrive at these estimates, I analyze vote history files using a combination of exact matching and placebo tests to test the identification assumptions. I then leverage an unusual institutional arrangement in the City of Boston and longitudinal data from Florida to show that the result also holds at the precinct level. The findings in this paper have important policy implications for administrative changes that may impact line length, such as voter identification requirements and precinct consolidation. They also suggest that racial asymmetries in precinct wait times contribute to the gap in turnout rates between white and non-white voters.

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1. Long lines at voting precincts

In recent years researchers and political observers have paid increasing attention to the impact that the administrative component of elections has on voter behavior. Existing research has focused largely on the effect that legal changes—such as voter identification laws or early voting—have on turnout (Highton, 2017; Hajnal, Lajevardi, and Nielson, 2017; Burden et al., 2014). In contrast, little consideration has been given to the experience voters have while inside their precinct, despite recent work showing how first-hand experiences can shape a person's political participation (Achen and Bartels, 2016; White, 2019). This paper extends our understanding of the political participation by exploring how one aspect of the precinct experience—standing in line to vote—shapes the turnout behavior of voters in future elections. Using three different empirical approaches, I find that voters who have worse in-precinct experiences (i.e. those who wait longer to cast their ballot) are less likely to participate in subsequent elections.

Roughly 3.5 million voters waited longer than one hour to cast their ballot in 2012. If a long line is equally likely to occur at every precinct¹ we might characterize the problem as a random nuisance, but not one that has broader implications. Research shows, however, that racial demographics are one of the strongest predictors of how long somebody waits in line (Famighetti, Melilli, and Pérez, 2014; Herron and Smith, 2015a; Stein et al., 2019), with non-white voters being seven times more likely to wait longer than an hour than white voters (Chen et al., 2019). Even more troubling, these racial differences are largely attributable to local election officials providing more poll workers and voting machines to more heavily white precincts, at the expense of precincts serving minority voters (Herron and Smith, 2016; Pettigrew, 2017).

The focus of this paper is to identify the effect that long lines have on the turnout behavior of voters in future elections. While there may be other consequences of waiting for hours to cast a ballot–for example, a decrease in their confidence in the electoral process—altering future turnout is perhaps the most consequential. When the decision-making of local

¹Although their meanings differ slightly, I use the terms 'precinct' and 'polling place' interchangeably throughout the paper.

bureaucrats contributes to longer lines that turn voters off from participating, democratic accountability is eroded. A poor precinct experience may also stymic the development of a voting habit by a new voter. This is particularly relevant given the large number of first-time minority voters in 2008 and 2012. It may also explain some of the drop-off in minority turnout in 2016.

To estimate the effect that waiting in a line has on future turnout, I employ three empirical strategies to show that for each additional hour of waiting in line, turnout in the next election diminishes by about one percentage point. Placebo tests throughout the paper indicate that this result only holds for those who voted in-person in 2012 and not those who voted by mail or did not vote, suggesting that the relationship is not a spurious one.

After developing my hypothesis in Section 2, I use a national sample of voter history data to estimate the turnout effect at the voter level. In Section 3.1, I show that 2012 wait times predict 2014 turnout for those who voted in-person in 2012, but not for those who voted by mail or who did not vote. Exact matching, coupled with additional placebo tests in Section 3.2, deals with selection bias and provides strong evidence that lines depress turnout. In Section 4, I focus on analyses in the City of Boston and seventeen counties in Florida, which providing precinct-level evidence of a turnout effect of lines.² I then demonstrate, in Section 5, that about 200,000 people did not vote in 2014 as a result of their bad precinct experience in 2012, with a skew toward racial minorities. I conclude the paper by discussing the implications these results have on representation, as well as our understanding of citizen participation and habitual voting.

2. How lines can affect turnout

Researchers have long emphasized the importance of political institutions in shaping political behavior, focusing mostly on factors on things which influence a person's likelihood of going to the polls, like age requirements (Meredith, 2009), get out the vote efforts (Gerber, Green, and Larimer, 2008), or primary election eligibility rules (Kaufmann, Gimpel, and Hoffman, 2003). Only recently have scholars considered the impact that a voter's experience

²The results in Florida are consistent with prior work by Cottrell, Herron, and Smith (Forthcoming).

at their polling place has on their behavior. This paper builds on research about the effect of polling location on vote choice (Brady and McNulty, 2011; Amos, Smith, and Claire, 2017) and furthers our understanding of how an individual's personal experiences shape their political outlook. Why, then, might we expect a bad precinct experience—manifested in a long line—to impact a voter's future turnout? The literature on political participation provides us with two potential answers.

The first explanation comes from the rational choice literature, where the decision to vote is a function of the costs and benefits from voting (Riker and Ordeshook, 1968; Aldrich, 1993). Previous work has shown additional costs from changed precinct locations (McNulty, Dowling, and Ariotti, 2009) or lengthy commutes to the polls (Gimpel, Dyck, and Shaw, 2006) result in diminished turnout. When a voter waits in a long line, they might update their utility function to accounting for the cost of possibly waiting in a long line again. Also, the mere act of standing in line with dozens or hundreds of other voters might remind a voter that his or her individual vote is unlikely to be pivotal in the outcome of the election, thereby diminishing their chances of turning out in the future. Yet while this framework is a useful start, rational choice cannot completely account for why lines might impact turnout. In some ways, waiting in line in the first place, when that ballot is unlikely to be pivotal, could be construed as irrational behavior.

The second explanation for why lines may depress future turnout is a psychological and sociological one. Recent research views electoral participation as more of a consumption good than an investment one (Achen and Bartels, 2016). By this line of reasoning, voters do not formulate political opinions or decide to participate based on a rigorous cost-benefit analysis. Rather, they make their decisions based on a combination their social environment and personal experiences. For many, participation in politics is a source of entertainment which derives social benefits (Hersh, 2020). It stands to reason then, that a bad customer service experience at the polls might make them likely likely to turn out in the future.

Another potential psychological explanation for the hypothesis is that negative experiences with government officials can diminish a citizen's political efficacy. Much of the work on this topic focuses on contact with the criminal justice system (White, 2019; Weaver and Lerman, 2014). Others (Alvarez, Hall, and Llewellyn, 2008) have shown that when a

voter feels less confident in the effectiveness of the electoral system, they are less likely to participate in the future.

Empirical data suggests that voters who experience long lines express doubt in the electoral system. Those who waited longer than an hour in 2012 were 13.2 percentage points (SE: 3.43 pp) less likely to be "very confident" that their vote was correctly counted, compared to those who did not wait at all. Unsurprisingly, those who waited more than an hour were 43.8 percentage points (SE: 3.25 pp) less likely to rate the performance of their poll workers as "excellent" or "good." These patterns indicate that those who wait to vote tend more frustrated with the system, and thus more likely to be turned off from voting in the future.

One potential objection to the diminished turnout hypothesis is that voters can adjust their behavior to respond to lines in ways other than not voting at all. For example, in the following election a voter could vote at a different time of the day, when they anticipate lines to be shorter. While this is certainly plausible, most people (particularly those in areas afflicted by lines) only have the option to vote before or after their workday, when lines are at their longest. Voters may also choose to vote early, although evidence shows that early voters tend to experience lines that are longer than Election Day voters. Absentee voting by mail is another option, and I show in the next section that lines do appear to push people toward this mode of voting. These possibilities make the identification of an overall turnout effect more difficult and amplifies the normative implications of such an effect.

3. Estimating the effect of lines on turnout

The main challenge to identifying the relationship between long lines and turnout is selection bias. The strongest predictors of line length are a neighborhood's racial composition and its population density (Pettigrew, 2017; Herron and Smith, 2015a; Famighetti, Melilli, and Pérez, 2014), but these factors may also confound the relationship between lines and turnout. White voters are more likely to live in suburban and rural areas where lines tend to be shorter. Minority voters, particularly those who are Black, are more likely to live in

³See Figure A.7 in the appendix for the full results of these two analyses.

urban settings, where lines are longer because high population densities make the administrative task of elections more difficult. State laws and regulations, like voter identification requirements, also muddy the relationship since they have been found to increase the length of lines and may also effect turnout.

Disentangling this confounding is difficult in the absence of a randomized experiment, although not impossible. In the next subsection, I use regression to estimate the effect of interest, relying on a conditional ignorability assumption for causal identification. I justify this strong assumption with placebo tests using voters-by-mail and nonvoters. I then employ exact matching to more effectively eliminate confounding on observables (Iacus, King, and Porro, 2011a). By grouping together voters who have identical covariate profiles, but who experienced different line lengths, we can eliminate confounding from those covariates by forcing them to be completely uncorrelated with line length. Finally, I conclude this section with an analysis of how lines impact future in-person versus mail-in absentee voting.

The analyses throughout this section use data from Catalist, a vendor which compiles vote history data from across the country. Specifically, I analyze a 1% random sample from Catalist's database (n>3 million), which includes a representative sample of vote history information from the entire country.⁴ I subset the data to include only individuals who were registered to vote in the November 2012 election.⁵

The outcome variable of interest is whether an individual voted in the November 2014 midterm election. Using 2014 as the outcome provides a tough test for the turnout hypothesis. Midterms have much lower turnout than presidential races—those who do participate tend to be habitual voters who would be less sensitive to experiencing a long line. 6

⁴I remove voters from Washington and Oregon for all analyses, since those states exclusively used a voteby-mail system in 2012. I include Colorado, although it had mostly switched to vote-by-mail in 2014. The results are not sensitive to its inclusion.

⁵Recent work by Jackman and Spahn (2019) shows that non-registered racial minority and low income people are underrepresented in such databases. Restricting my sample to only registered voters mitigates this problem. Another limitation of voter file analyses is the issue of voter mobility creating stale voter registration lists. Commercially curated voter lists like Catalist are more likely to address these issues than public voter files because companies can track voter mobility using proprietary commercial data that state election officials do not have access to. This creates a limitation to working with these data, since it is difficult to assess these curation methods. Nonetheless, using a national file like Catalist is a distinct advantage over uncurated state-level voter files.

 $^{^6}$ Among those who voted in 2014, 68.1% of them had also voted in each of the prior three elections (2008, 2010, and 2012) and 53.9% had voted in the previous four (2006 through 2012). In contrast, only 42.4% of

Ideally, the "treatment" variable would be the amount of time each individual voter in the sample waited in 2012. Unfortunately, this information is only collected for a very small number of voters.⁷ As such, I turn to the 2012 Cooperative Congressional Election Study, which asked its nearly 60,000 respondents, "Approximately how long did you wait in line to vote?" and then were presented with five responses: 'not at all', 'less than 10 minutes', '10 to 30 minutes', '31 minutes to an hour', and 'more than an hour'. Following the convention used in this literature (Pettigrew, 2017; Stewart, 2013), I recode the responses as hours and fractions of hours.⁸

I then averaged the wait times within ZIP codes and merged them with the Catalist data. All ZIP codes with at least one response were included in the analysis. This yields estimates of the average line length in 11,819 ZIP codes, covering 79.1% of Americans (when weighting by population). An alternative approach would be to only use ZIP codes with at least n>1 responses. Figure A.9 in the appendix shows that the conclusions drawn do not change when choosing other thresholds.

Despite expected random noise in survey responses, there is also very little variation in line length within a single ZIP code. When randomly selecting two CCES respondents from the same ZIP, there is a 37% chance that they gave identical answers to the line length question, and an 78% chance that they answers differed by no more than one response category. This is a significant reduction in variance from comparing two respondents from within the same state, county, or nationally.⁹

Table 1: How did lines in 2012 impact the turnout of voters in 2014?

	In-person	Mail	Non-voters
	(1)	(2)	(3)
2012 wait (hrs.)	-0.0063**	0.0008	0.0020
• '	(0.0021)	(0.0034)	(0.0018)
Observations	774,836	166,885	373,595

*p<0.05; **p<0.01; ***p<0.001 Linear probability model coefficients reported Controls and state fixed effects included

3.1. Evidence from individual voter records

Model 1 in Table 1 shows the results of a linear probability regression model¹⁰ in which the outcome variable is whether the individual voted in 2014 and the covariate of interest is the average wait time for that person's ZIP code in 2012.¹¹ To account for confounding, the models control for the voter's race, age, education, and turnout history in 2006, 2008, and 2010.¹² I also include controls for population density, racial diversity, median income, and percent of non-English speakers in the voter's Census block-group, as well as state fixed effects.¹³

As Model 1 demonstrates, there is a significant, negative relationship between the amount of time an in-person voter waited in 2012 and her probability of voting in 2014. Figure 1

²⁰¹² voters had participated in the prior three elections.

⁷Another alternative is to use the 2010-2014 CCES panel studies, since they include 2012 individual wait time and 2014 turnout data. Attrition is a major problem with this data because it is strongly correlated with turnout. 90% of those who participated in the 2014 wave of the panel voted in that year's election. This provides virtually no variation in the outcome variable, and the sample would need thousands more respondents to have the power to detect even a large effect.

⁸Respondents who fall into the first four categories were coded at midpoint of their response category (i.e. 0, 5, 20, and 45 minutes). Those who waited more than one hour specified their wait time in an open-ended followup.

⁹See Figure A.8 in the appendix for additional analysis.

 $^{^{10}\}mathrm{The}$ substantive results are the same when using logistic regression. Those results are reported in appendix Table A.8.

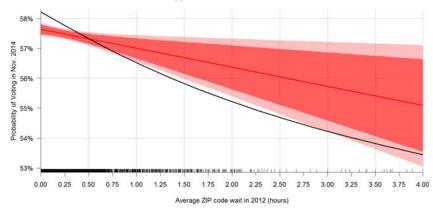
¹¹Standard errors throughout the paper are clustered by ZIP code because that was the level at which the treatment was measured.

¹²Fraga (2016) notes that 2006 is the earliest election for which the Catalist data are reliable. Estimating the model using turnout as far back as 2002 does not change the substantive results. Nor does including only 2008 and 2010 turnout or just 2010 in the model.

 $^{^{13}}$ These variables all come from the 2012 estimates of the 5-year American Communities Survey, conducted by the Census Bureau. Table A.6 in the appendix reports the full regression results with all controls.

¹⁴The results also hold when a quadratic term is included for the wait time variable. See Table A.7 in

Figure 1: Predicted probability of turnout in 2014, conditional on wait time in 2012 (with 95% and 99% CIs and loess smoother of bivariate relationship)



presents this result graphically. The voters that did not wait in line in 2012 had an expected 2014 turnout probability of 57.6% (95% CI: [57.5, 57.8]). The turnout probability of those who waited one hour in 2012 was 57.0% [56.7, 57.3]—an average of 0.6 percentage points [0.2, 1.1] lower than those who did not wait at all. As the rugplot on the graph illustrates, most ZIP codes had an average wait of less than one hour, yet 5.4 million (4.2%) of voters in 2012 lived in a ZIP code with a average wait of greater than 60 minutes.

Interpreting these results causally requires assuming that there are no confounding variables excluded from the model. I test this assumption using placebo tests. Because the measure of 2012 line length is in terms of the average ZIP code wait, I can approximate

the appendix for these results. The marginal effect is more than doubled when we include the reported wait times from only CCES respondents who voted in-person on Election Day. When a similar analysis using only early in-person CCES respondents, there is no effect. This probably results from the inability to distinguish between early and Election Day voters in the Catalist data, and the fact that most 2012 in-person voters cast their ballot on Election Day.

¹⁵These predicted probabilities of turnout may seem high, given that the 2014 turnout among the voting eligible population was about 36% (McDonald, 2016). Recall though that this analysis conditions on people who voted in 2012, when turnout was about 58%. If we assumed that all 2014 voters also voted in 2012, then the probability of a 2012 voter turning out in the midterm would have been roughly 62% (0.36/0.58). Relaxing this assumption would bring this estimate toward the range reflected in Figure 1.

the amount of time mail-in absentee and non-voters would have waited if they had voted in-person. If the statistically significant result among in-person voters is the consequence of some unmeasured confounder, we might expect to find a similar result among mail-in and non-voters.

Using the same specification as Model 1 in Table 1, I find (in Models 2 and 3) that the assumption stands up to these placebo tests. No significant relationship 2012 wait time and 2014 turnout exists among those who did not experience a long line. ¹⁶ These null results tell us is that the significant result for in-person voters is unlikely to be the consequence of some unmeasured demographic attributes that predict both line length and turnout patterns. The lack of significant results suggests that the shift in future turnout among in-person voters results from the physical act of standing in line.

3.2. Using matching to mitigate confounding

Although regression helps to account for confounding, it does not ensure that the treatment and control groups will be balanced on higher order moments and interactions between covariates (Iacus, King, and Porro, 2011b). To deal with this problem, I employ exact matching, which has been used in recent work to estimate causal from vote history data where turnout is the outcome of interest (Fraga, 2016).

Matching requires clearly defined treatment and control groups. Because the treatment of interest (line length) is continuous, I fixed the control group to be people in areas where the average line length was between 0 and 15 minutes, and defined four treatment groups based on where lines were 15-30 minutes, 30-45 minutes, 45-60 minutes, and longer than 60 minutes. I separately matched people in the control category to those in each of the four treatment categories, and used these four matched datasets to estimate four estimates of the treatment effect.¹⁷

I use exact matching to pair treated and control units within the same state, who are

¹⁶There is the possibility that some of these placebo observations did, in fact, receive the treatment, whether from seeing a long line as they drove past a precinct or by actually standing in the line but leaving before they cast a ballot. However this would bias the placebo tests away from a null result, thus making them tougher tests.

 $^{^{17}{\}rm The~smallest}$ of these 5 treatment/control categories has 59,605 observations. See Appendix Table A.9 for a the sample sizes of all the groups.

the same race (White, Black, Hispanic, or Other), and who have an identical vote history in the 2006, 2008, and 2010 general elections. Because several neighborhood demographic variables are continuous, I employed coarsened exact matching, wherein continuous variables are partitioned based on cutpoints and then exact matching is done using the discretized data (Iacus, King, and Porro, 2011a). CEM allows for matching on Census block-group population density, percentage white, percent non-English speaking, and median income, as well as the voter's age. Applying this matching model to the in-person, mail-in, and non-voter samples from Catalist ensures the treatment and control groups have perfect balance for the exact-matched variables, and statistically indistinguishable means for the coarsened variables.

Table 2: Effect of lines on turnout in matched dataset (2012 in-person voters only)

	(1)	(2)	(3)	(4)
Long wait	-0.0076^{***} (0.0019)	-0.0107^{**} (0.0037)	-0.0116** (0.0043)	-0.0161^{**} (0.0049)
'Treatment' group Observations (weighted)	15-30 min. 111,623.7	30-45 min. 29,765.9	45-60 min. 21,352.8	60+ min. 18,186.4

 * p<0.05; * *p<0.01; * **p<0.001 OLS coefficients reported Controls and state fixed effects included Control group is always people where lines were between 0 and 15 minutes

Table 2 reports the post-matching estimates of the effect of a long 2012 wait on an inperson voter's probability of turning out in November 2014.¹⁹ Each column reports a separate estimate of the turnout effect, given different definitions of the 'long wait' treatment group. In all four cases, in-person voters who lived in a ZIP code with longer average waits were between 0.7 and 1.6 percentage points less likely to vote in 2014 than those who lived in neighborhoods where the average wait was between 0 and 15 minutes.

Because these results are based on matching, we can go one step further in interpretation.

¹⁸The block-group variables were each divided into twenty strata, based on 5% quantiles. The age variable was divided into five year bins.

¹⁹ZIP code cluster-robust standard errors are reported. The full results, including control covariates, are presented in Appendix Table A.10.

When selecting two voters from the same state, who are the same race and similar age, have the identical turnout history, and live in neighborhoods with nearly identical demographic profiles, the voter who lives in the neighborhood with an average wait more than an hour was 1.6 percentage points less likely to vote in 2014 than their counterpart in a neighborhood with an average wait of less than 15 minutes.

3.5% 3% 2.5% Effect of long 2012 wait on probability of 2014 turnout 2% 1.5% 196 0.5% 0% -0.5% -1% -1.5% -2% -2.5% -3% Treated: 15-30 min Treated: 30-45 min Treated: 45-60 min Treated: 60+ min Control: 0-15 min Control: 0-15 min Control: 0-15 min. Control: 0-15 min

Figure 2: Effect of 2012 lines on turnout for various definitions of the treatment group

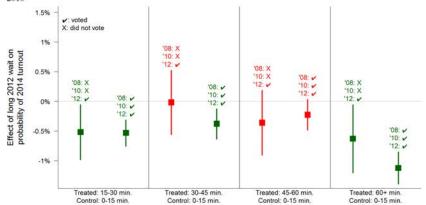
The four 'in-pers. voters' green bars and squares in Figure 2 visualize the results in Table 2.²⁰ The bars labeled 'non-voters' and 'mail voters' present the results from the eight placebo tests of the effect of lines on people who did not go to their precinct in 2012.²¹ For these tests, the matching process described above was applied to one of the placebo groups, and the effect of wait times on turnout was estimated using the same model specification as Table 2. In seven of the eight placebo tests (marked by triangles and red bars), the results do not provide enough evidence to reject the null hypothesis.

These placebo tests, as well as those in the previous section, lend credence to the hypothesis that it is lines that are affecting turnout, rather than the results being driven by

²⁰The bars signify 95% confidence intervals.

²¹Appendix Tables A.11 and A.12 show the full results from these models.

Figure 3: The effect of a long wait for people 2012 in-person voters, given their turnout history in 2008 and 2010



an underlying attribute of the people that live in areas with long lines. The placebo checks also hint at the mechanism at work. They suggest that the turnout effects among in-person voters are the result of the physical act of standing in line, rather than the treatment passing by word of mouth to those who did not directly experience a long line.

One possible explanation for the results thus far is that they are driven largely by turnout. While this would not invalidate the results, it could potentially mute the normative and policy implications of the findings. The argument is that precincts that had an unusually high turnout in 2012 are the exact areas where we would expect a dropoff in turnout in 2014, irrespective of how long the lines actually were. If this were the case, we should see a small effect of lines on people who vote every two years and a larger effect among those who voted in 2012 but do not typically participate (especially in midterms). Figure 3 shows the estimated treatment effects for people who voted in-person in 2012, divided out based on whether or not they voted in 2008 and 2010.²²

 $^{^{22}}$ These results come from the four matched datasets used in Table 2, which were subset based on 2008 and 2010 turnout history prior to estimating the coefficients.

If turnout fully explained the result here, we would expect to see the coefficients for among regular voters to be smaller in magnitude (and perhaps statistically indistinguishable from zero) than the coefficients for more sporadic voters. Instead, Figure 3 shows that this pattern does not hold. Within each of the four treatment categories, there is no statistically significant difference in the effect sizes for sporadic voters (on the left) and regular voters (on the right). This evidence pushes back against the idea that the effects found here are simply a matter of low-propensity voters dropping out of the voting pool when faced with long lines. In fact, the result appears to be driven equally by low- and high-propensity voters.²³ These results indicate that the effect of long lines is not simply a story about turnout reverting to the mean, or an unmeasured variable influencing both lines and future turnout. Rather, long lines at precincts appear to have a measurable effect on the future turnout patterns of voters.

3.3. Voting in-person versus voting by mail in future elections

Before turning to an analysis of precinct data, I consider alternative ways in which lines may affect voter behavior. In addition to turning some voters off from the process entirely, it may also be the case that some voters shift their behavior toward voting by mail, in order to avoid lines but not withdraw from the electoral process entirely. If this occurs, we should see areas with long lines having an uptick in the proportion of voters who shift from voting in-person in 2012 to by-mail in 2014.

To evaluate this possibility, I use the same data and model as Table 1 but change the dependent variable to be a three-category variable for whether the voter voted in-person, by mail, or did not vote at all in 2014. Multinomial logistic regression, summarized in Table 3, allows me to simultaneously estimate impact of 2012 lines each of these three outcomes. For in-person voters in 2012 (column 1 in the table), the model suggests that voters in areas with long lines were significantly less likely to vote in-person (relative to not voting at all) and significantly more likely to vote by mail in 2014. For the 2012 mail and nonvoter placebo groups (columns 2 and 3), there was no significant shift in voting patterns as a result of the

²³When we apply the same subgroup analysis approach to the placebo groups, I find null effects for all eight regressions using 2012 voters-by-mail and for seven of eight regressions using 2012 non-voters.

Table 3: How did 2012 lines impact the mode of voting in 2014?

	Mode of Voting in 2012:				
	In-person	Mail	Nonvoters		
2012 wait (hrs.) (DV: in-person in 2014)	-0.0443***	0.0274	-0.0040		
	(0.0076)	(0.0218)	(0.0154)		
2012 wait (hrs.) (DV: voting by mail in 2014)	0.0972***	-0.0110	0.1060		
	(0.0173)	(0.0171)	(0.0675)		
Observations	774,836	166,885	373,595		

*p<0.05; **p<0.01; ***p<0.001 Multinominial logit coefficients reported DV reference category: Not voting in 2014

DV reference category: Not voting in 2014 Controls and state fixed effects included

length of line in a voter's neighborhood.

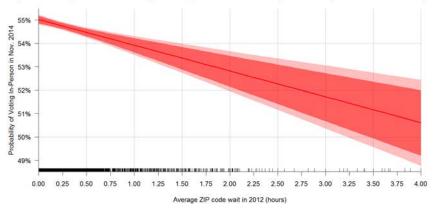
To better understand the magnitude of the effects from the in-person model, I calculated predicted probabilities of voting in-person or by mail in 2014. The top of Figure 4 shows that a voter in an area with no lines had a 55.0% (SE: 0.081%) chance of participating in-person in 2014, while somebody in an area with hour-long lines had a 53.9% (SE: 0.31%) chance of participating. The bottom panel of the figure indicates that those same voters were more likely to vote by mail instead. The magnitude of the effect here is more modest; there was a 0.2 percentage point increase in absentee voting probability (SE: 0.044 pp) for those experiencing lines of one hour compared to those experiencing no line. Combined together, the net impact of a large decrease in in-person voting and a small increase in voting by mail is a negative overall turnout effect, reported in Figures 1 and 3.

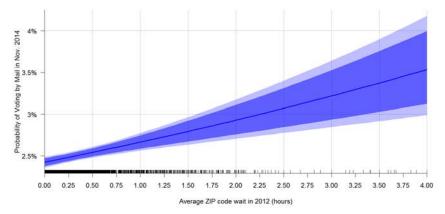
4. Precinct level analyses

With such consistent support the turnout hypothesis at the individual-level, I now turn to precinct-level data for further evidence. Although precinct-level data on line length is not readily available, recent work has shown that the delay in precinct closing times correlates strongly with line length at precincts (Pettigrew, 2017; Herron and Smith, 2015b). It is a strong proxy because of electoral rules: if a voter is in line when the precinct is supposed to close, they are allowed to cast a ballot. Thus, the delay between the designated and actual closing times of a precinct will be strongly correlated with line length.

One challenge to a precinct-level approach is that precinct boundaries often change be-

Figure 4: Changes in mode of voting in 2014, given different line lengths in 2012 (with 95% and 99% CIs)





tween elections (Nyhan, Skovron, and Titiunik, 2016), in part, to alleviate long lines. It is also difficult to find the election t+1 voting records for the set of voters who voted at a precinct in election t, since the voter file just after t+1 only identifies their precinct for election t+1 and not their precinct in election t.

To deal with these issues, I take advantage of two different research designs. First, the

City of Boston provides a unique opportunity to circumvent the issue of changes to precinct boundaries. In 1920, the Massachusetts state legislature passed legislation requiring that any precinct boundary changes in Boston must be approved by the legislature. As a result, the precinct borders in the city have remained the same for nearly a century²⁴. Analyzing changes in precinct turnout after 2012 provides a better estimate of the turnout effect than is possible in a city or county where precinct boundaries can move between elections.

The second design uses precinct closing time data from 17 counties in Florida. Although Florida precinct boundaries were not fixed like Boston, I use snapshots of the state voter file from just after the 2012 and 2014 elections to track an individual's turnout across time. I use the 2012 snapshot to identify every voter in each 2012 precinct, and then reidentify them in the 2014 data. This allows me to calculate the 2014 turnout rates for the set of voters in each 2012 precinct, even when re-precincting or voter mobility has spread the precinct's 2012 voters across the state.

4.1. Changes in turnout in Boston precincts

There are 255 voting precincts in the City of Boston. In the November 2012, election the average precinct closed at 8:35 PM-35 minutes later than the designated closing time. The distribution of the closing times is right-skewed: 51.0% of precincts closed before 8:15. On the other end of the distribution, 19.8% of precincts closed more than an hour late. Six precincts had not closed their doors until after 11:00 PM; two of those did not close until 12:09 AM and 12:22 AM.

To measure the impact of lines had on future turnout, I analyzed the precinct turnout rates for three post-2012 elections, plus one pre-2012 election to serve as a placebo test. The three post-2012 elections – the Sept. 2013 mayoral primary election, the Nov. 2013 mayoral general election, and the Nov. 2014 federal election – were all low turnout contests. This makes them particularly difficult tests of the hypothesis, since most participants in low salience elections have more consistent voting patterns and are less likely to be affected by one bad precinct experience.

Table 4 reports the results of these four regressions, where the dependent variable is the

²⁴ "Phantom Precinct Shows City's Arcane Voting Laws." Boston Globe. November 3, 2009.

Table 4: Effect of end-of-day lines in Boston on future turnout

	Dependent variable: Turnout change from 2012 to			
	Nov. '14	Nov. '13	Sept. '13	Nov. '08
	(1)	(2)	(3)	(4)
Closing delay (hrs.)	-0.0060^{**} (0.0023)	-0.0087^* (0.0035)	-0.0058^* (0.0027)	-0.0003 (0.0025)
Observations R ²	$245 \\ 0.6540$	$\frac{245}{0.6175}$	$245 \\ 0.2134$	$245 \\ 0.0362$

*p<0.05; **p<0.01; ***p<0.001 OLS coefficients reported Control variables included

change in turnout from the 2012 election.²⁵ In addition to controlling for the 2012 delay in precinct closure, I included several precinct demographic variables,²⁶ as well as November 2010 turnout, which was the strongest predictor of turnout in 2014. Columns 1, 2 and 3 in the table show that for every additional hour late that a precinct closed, its turnout in subsequent elections dropped between 0.58 and 0.87 percentage points. The null result in column 4 provides evidence that the results that the post-2012 results in the first three columns are not the consequence of confounding by unmeasured factors which predict both line length and turnout in elections before or after 2012.²⁷

4.2. Changes in turnout in Florida precincts

Like Boston, I proxy for line length using precinct closing times from 3,334 precincts in 17 Florida counties, covering 75.7% of the state's population. Unlike Boston, however, movement of precinct borders between elections makes it challenging to compare the reported precinct turnout in 2012 to that in 2014.²⁸ To estimate the effect, I first identify the set

 $[\]overline{\ \ \ }^{25}$ Although there are 255 precincts in Boston, precinct closure time was not available for 8 of them and there is missing demographic data for two more.

²⁶These were percent white, median income, percent with a college degree, percent under 18 years old, and percent over 65. The racial demographics were collected from precinct level Census reports from the 2012 American Communities Survey. The others were aggregated from Census block-group data in the 2012 ACS.

²⁷Because I control for 2010 turnout in the model, I chose not report 2010 as a second placebo test, although such a model (which excludes the 2010 turnout control variable) indicates a null effect (p=0.899).

²⁸In 13 of the 17 counties, the number of precincts changed between the two elections, indicating that precinct boundaries throughout the counties were altered.

of voters in each of the 3,334 precincts in 2012 using the voter file data.²⁹ I then use a voter-specific identification number to reidentify each of these voters in the 2014 data and determine whether they voted in the midterm election.³⁰ With this I calculate 2014 turnout rates for each 2012 precinct, including voters that may have moved to a different part of the ${
m state.}^{31}$

Table 5: Impact of 2012 wait on future turnout in Florida

	Nov. 2014	Aug. 2014	Nov. 2008
	(1)	(2)	(3)
Closing delay (hrs.)	-0.0046^{***} (0.0004)	-0.0003 (0.0003)	-0.0004 (0.0003)
Observations (weighted) Observations (unweighted) R ²	3,334 $3,012,356$ 0.1520	3,334 $3,012,356$ 0.1045	3,334 3,012,356 0.1608

*p<0.05; **p<0.01; ***p<0.001 County fixed effects included WLS coefficients reported

Weighted least squares estimates the relationship between 2012 precinct closing delay and future turnout at the precinct level.³² Using variables available in the voter files, I control for the gender balance, racial composition, average age, party registration, and 2010 turnout rate of each precinct. Table 5 presents the results for three regressions.³³ The first two columns test whether the end-of-day lines in 2012 were predictive of turnout rates in the November 2014 general election and the August 2014 statewide primary election. The third column is a placebo test for whether 2012 lines were correlated with November 2008

²⁹The voter file snapshot was taken on February 28, 2013. While there are a small number of people who moved to a different precinct and re-registered to vote between November 2012 and February 2013, these data provide the most accurate list of voters in each precinct as is possible, given available data.

³⁰Amos, Smith, and Ste. Claire (2017) use a similar empirical strategy to study the effect of reprecincting on turnout.

³¹This approach cannot account for voters who moved out of the state between 2012 and 2014, but Census data indicate that only about 2% of Florida's 2012 population left the state by 2014 and this percentage is almost certainly smaller for registered voters, who tend to be less mobile (Ansolabehere, Hersh, and Shepsle,

³²The weight for each voter in the dataset is the reciprocal of the total number of voters in their precinct, thereby ensuring one observation per precinct in the analysis. $^{33}{\rm The}$ full table of results is in Appendix Table A.17.

turnout.

For each additional hour that a precinct stayed open in 2012, its turnout rate in November 2014 decreased by 0.5 percentage points. This result is consistent with Cottrell, Herron, and Smith (Forthcoming), which uses voter check-in times to find a one percentage point effect of long lines. Additionally, column 3 of Table 5 shows that the placebo test checks out: 2012 line length was not predictive of 2008 turnout. The estimates in column 2, however, deviate from the hypothesis. These results suggest that 2012 closing time was not a significant predictor of the turnout in the August 2014 primary election. This finding suggests a limit to the scope of the turnout effect of lines. The turnout in the August 2014 primary was only 18%, which was the second lowest rate for any primary or general election in the state since at least 1954.³⁴ This makes this election a particularly difficult test of the hypothesis, given those who did participate were very likely to have consistent turnout records and would the least unlikely to change behavior in response to a long line in 2012.

Figure 5: Expected Florida precinct turnout rates in November 2014 conditional on 2012 end-of-day lines (with 95% and 99% CIs)

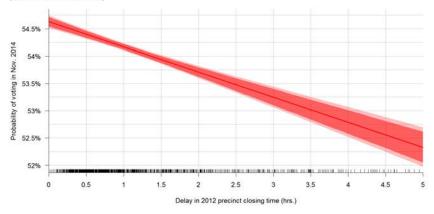


Figure 5 presents the November 2014 result graphically. For the 28.1% of precincts that

³⁴See: http://dos.myflorida.com/elections/data-statistics/elections-data/voter-turnout/

closed within thirty minutes of the designated closing time, the average turnout in the 2014 general election among 2012 voters was 54.5%. In the 1,193 precincts (35.8%) that closed more than an hour late, the expected turnout rate was 0.46 percentage points lower than a precinct that closed on-time. The expected turnout in the 345 precincts (10.3%) that closed more than two hours late was less than 53.7%—0.92 percentage points lower than on-time precincts.

5. Implications and Discussion

The analyses in this paper provide consistent evidence that longer lines diminish voter turnout in future elections. The magnitude of the individual-level effect is roughly 1 percentage point for every additional hour of waiting. Given the literature on turnout, which has found that it is very difficult to change a person's probability of turning out by more than 4 or 5 percentage points (Gerber, Green, and Larimer, 2008; Green, Gerber, and Nickerson, 2003), an difference of 1 percentage point for the millions of voters who waited at least an hour in 2012 is consequential.

Total White 80% 250k % of dropoff 70% 225k % of voters in 2014 200k 60% White 175k 50% 150k 40% 125k Afr.-100k 30% Afr.-Amer. 75k Amer. 20% Other Hisp. 50k Other Hisp. 10% race race 25k 0 0%

Figure 6: How many voters did not vote in 2014 because of 2012 lines?

To estimate just how consequential, I used the results from Model 1 in Table 1 to estimate the 2014 turnout probability for every 2012 in-person voter in 1% sample of the Catalist data, based on their observed covariates and their ZIP code average wait. I then estimated their

probability of turning out if they had lived in an area where there were no lines to vote. The difference between these two numbers is the expected change in turnout probability for a particular voter. Figure 6 shows how these results vary by race. Of the roughly 107 million in-person voters in 2012, 192,100 (SE: 36,332) did not vote in 2014 as a result of waiting to vote in 2012. Given that midterms tend to be low-turnout affairs, an subtraction of 192,000 voters is not a meaningless one. This is especially true in close elections like in Arizona's 2nd congressional district, which was won by a margin of 121 votes in 2014 (out of over 220,000 cast). In that district alone, the model suggests about 258 (SE: 56.4) people did not vote as a result of lines in 2012. This is not to suggest that long lines determined the outcome of this election, only that there is a realistic potential that poor management at polling places could have an impact on election results in close races.

We must also consider that minority voters are more likely to be burdened by long lines at the precinct. When voter dropoff is broken down by race, I find that the effect of lines on minority voters is disproportionate to their makeup of the electorate. While African-Americans comprised about 9.7% of the electorate in 2014, they made up 22.0% of voters turned off from voting due to 2012 lines. Similarly, 5.1% of 2014 voters were Hispanic, but 9.7% of depressed turnout came from this group. An implication of this finding is that long lines disproportionately depress turnout among African-Americans, when compared to white voters. If voters no longer had to wait in line, we would expect, in the long run, that turnout rates would increase more in Black and minority neighborhoods than in White neighborhoods.

The results provide broader understanding of turnout and citizen participation. Given that voting may be habit forming (Meredith, 2009; Gerber, Green, and Shachar, 2003; de Kadt, 2017; Shino and Smith, 2018), future research can explore whether the effect of lines is ephemeral or whether it persists into the future. And because lines tend to be a persistent problem in specific areas of the country, the compounding effect of regular lines may further magnify their impact on turnout. We also could better understand the role played by a person's expectations about lines. Does waiting for thirty minutes have a different impact on somebody who expected to wait ten, compared to somebody who expected to wait sixty?

Future researchers may also consider the generalizability and scope of this turnout effect

by replicating the study in future elections. The administration of elections is a constantly-evolving enterprise in the United States. As states expand vote-by-mail and extend early voting periods, waiting in long lines may become more anomalous, potentially diminishing the effect on future turnout. Conversely, diminished oversight of election administration, resulting in part from changes to the enforcement of the Voting Rights Act, could cause racial disparities in line length to be magnified. Lastly, researchers may consider the generalizability of these findings by conducting similar studies in other countries. This would advance our understanding about the psychology of the costs of political participation. Or it may indicate that the findings here are unique to the American political context.

The results here also raise some interesting considerations, given the COVID-19 pandemic. Many presidential and state primaries in the 2020 election cycle had record numbers of voters casting a ballot by mail. This pattern is likely to continue in the November 2020 general election and beyond—at least until the pandemic eases. The analysis in this article suggests that turnout among these voters-by-mail will not be depressed in future elections. However, many states and counties are responding to the pandemic by decreasing the number of in-person polling places. This limited number of polling places, combined with an ineffective implementation of wide-scale vote-by-mail, could create a figuratively and literally dangerous combination for voters who have no choice but the vote in-person. If the 2020 primary elections in, for example, Wisconsin³⁶ and Kentucky³⁷ are an example, lines in some cities could stretch for hours in the general election. And the findings here suggest that the consequence of those lines could linger for years to come.

From a policy standpoint, the implications of these findings are clear. Poor resource optimization by local bureaucrats is making lines more likely to emerge in minority precincts. This changes not only the racial composition of the electorate, but also the partisan composition, given the level of racial polarization in many areas of the country. It also raises the troubling possibility that individuals seeking to suppress the votes of minority voters

 $^{^{35}}$ In many places, this is the result of a practical consideration. The pandemic makes it more difficult to recruit poll workers, who tend to be older and thus more vulnerable to the effects of the virus.

 $^{^{36}} https://www.npr.org/2020/04/07/828835153/long-lines-masks-and-plexiglas-barriers-greet-wisconsin-voters-at-polls$

³⁷https://www.kentucky.com/news/politics-government/article243731882.html

could implement policies that are known extend waiting times in minority precincts. And as long lines make voters less likely to vote in the next election, they diminish the quality for democratic accountability for those government officials.

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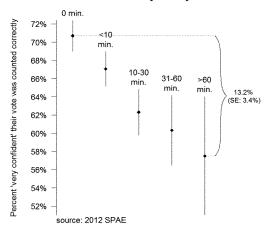
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Appendix A.

Figure A.7: Voter confidence in the electoral system, by 2012 wait time

Confidence in electoral system by wait times



Poll worker evaluation by wait times

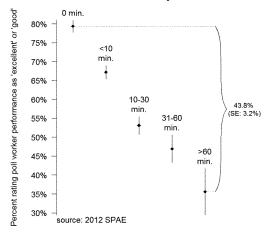
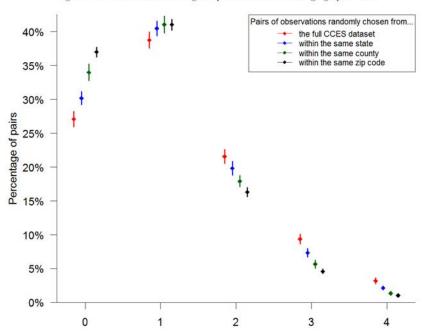
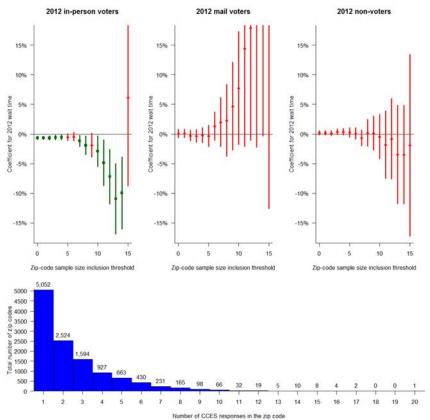


Figure A.8: Similarities of line length experience within various geographic units



Within a pair, how many response categories apart are their wait times?

Figure A.9: Relationship between 2012 wait time and 2014 turnout, based on sample size thresholds that dictate whether a ZIP code is included in the analysis



Note: 95% confidence intervals reported. Green intervals are statistically significant (p < 0.05); red intervals are not.

Table A.6: How did lines in 2012 impact the turnout of voters in 2014?

	1		
	In-person	Mail	Non-voters
	(1)	(2)	(3)
Intercept	0.2123***	0.2116***	0.2068***
	(0.0233)	(0.0423)	(0.0258)
2012 wait (hrs.)	-0.0063**	0.0008	0.0020
	(0.0021)	(0.0034)	(0.0018)
AfrAm.	-0.0109***	-0.0046	-0.0084***
	(0.0021)	(0.0048)	(0.0019)
Hispanic	-0.0639***	-0.0492***	-0.0232***
_	(0.0023)	(0.0042)	(0.0019)
Other race	-0.0698***	-0.0248***	-0.0263***
	(0.0033)	(0.0052)	(0.0025)
2006 turnout	0.1725***	0.1552***	0.0588***
	(0.0014)	(0.0030)	(0.0021)
2008 turnout	0.0024	-0.0096*	-0.0147***
	(0.0016)	(0.0038)	(0.0013)
2010 turnout	0.2862***	0.2649***	0.1482***
	(0.0014)	(0.0031)	(0.0027)
Age	0.0030***	0.0032***	0.0009***
-	(0.00004)	(0.0001)	(0.00004)
College educated	0.0002***	0.0002***	0.0003***
9	(0.00001)	(0.00002)	(0.00001)
White pet.	0.0030	-0.0146	0.0075*
•	(0.0039)	(0.0086)	(0.0037)
Pop. dens. (logged)	-0.0050***	-0.0027^*	-0.0026***
	(0.0005)	(0.0011)	(0.0006)
Non-Eng. speaking pct.	-0.0473****	-0.0663***	-0.0258***
	(0.0059)	(0.0120)	(0.0052)
Med. inc. (logged)	0.0104***	0.0087^{*}	-0.0010
5 5550 7	(0.0018)	(0.0035)	(0.0018)
Observations	774,836	166,885	373,595

*p<0.05; **p<0.01; ***p<0.001 Linear probability model coefficients reported Controls and state fixed effects included

Table A.7: How did lines in 2012 impact the turnout of voters in 2014?

	In-person	Mail	Non-voters
	(1)	(2)	(3)
Intercept	0.2105***	0.2080***	0.2061***
	(0.0232)	(0.0423)	(0.0258)
2012 wait (hrs.)	-0.0154***	-0.0119	-0.0011
	(0.0031)	(0.0080)	(0.0025)
2012 wait (hrs.) ²	0.0035***	0.0048	0.0011
	(0.0010)	(0.0026)	(0.0006)
AfrAm.	-0.0108***	-0.0044	-0.0083***
	(0.0021)	(0.0048)	(0.0019)
Hispanic	-0.0640***	-0.0492***	-0.0232***
	(0.0023)	(0.0042)	(0.0019)
Other race	-0.0698***	-0.0249***	-0.0263***
	(0.0033)	(0.0052)	(0.0025)
2006 turnout	0.1725***	0.1551***	0.0587***
	(0.0014)	(0.0030)	(0.0021)
2008 turnout	0.0023	-0.0096*	-0.0147***
	(0.0016)	(0.0038)	(0.0013)
2010 turnout	0.2862***	0.2649***	0.1482***
	(0.0014)	(0.0031)	(0.0027)
Age	0.0030***	0.0032***	0.0009***
	(0.00004)	(0.0001)	(0.00004)
College educated	0.0002***	0.0002***	0.0003***
	(0.00001)	(0.00002)	(0.00001)
White pct.	0.0027	-0.0148	0.0074*
	(0.0039)	(0.0086)	(0.0037)
Pop. dens. (logged)	-0.0048***	-0.0025*	-0.0025***
	(0.0005)	(0.0011)	(0.0006)
Non-Eng. speaking pct.	-0.0481***	-0.0669***	-0.0261***
	(0.0059)	(0.0120)	(0.0052)
Med. inc. (logged)	0.0105***	0.0089^{*}	-0.0010
4 /	(0.0018)	(0.0035)	(0.0018)
Observations	774,836	166,885	373,595

*p<0.05; **p<0.01; ***p<0.01; ***p<0.001 Linear probability model coefficients reported Controls and state fixed effects included

Table A.8: How did lines in 2012 impact the turnout of voters in 2014? (logit regression)

	In-person	Mail	Non-voters
	(1)	(2)	(3)
Intercept	-1.2485***	-1.5223***	-1.8708***
	(0.1179)	(0.2498)	(0.1860)
2012 wait (hrs.)	-0.0349***	0.0020	0.0219
	(0.0074)	(0.0160)	(0.0136)
AfrAm.	-0.0540***	-0.0275	-0.0981***
	(0.0099)	(0.0246)	(0.0206)
Hispanic	-0.3232***	-0.2519***	-0.2563***
	(0.0112)	(0.0211)	(0.0199)
Other race	-0.3557***	-0.1279***	-0.2681***
	(0.0156)	(0.0250)	(0.0247)
2006 turnout	0.8407***	0.8120***	0.4498***
	(0.0062)	(0.0141)	(0.0152)
2008 turnout	-0.0026	-0.0952***	-0.1423***
	(0.0074)	(0.0171)	(0.0130)
2010 turnout	1.3027***	1.2258***	1.0530***
	(0.0060)	(0.0142)	(0.0145)
Age	0.0156***	0.0172***	0.0092***
	(0.0002)	(0.0004)	(0.0003)
College educated	0.0012***	0.0008***	0.0026***
	(0.0001)	(0.0001)	(0.0001)
White pct.	0.0163	-0.0751	0.1081**
	(0.0171)	(0.0427)	(0.0346)
Pop. dens. (logged)	-0.0256***	-0.0147**	-0.0289***
	(0.0021)	(0.0049)	(0.0042)
Non-Eng. speaking pct.	-0.2419***	-0.3428***	-0.2635***
	(0.0245)	(0.0561)	(0.0466)
Med. inc. (logged)	0.0583***	0.0573**	0.0052
	(0.0084)	(0.0182)	(0.0157)
Observations	774,836	166,885	373,595
Log Likelihood	$-427,\!451.9000$	-86,732.5800	-124,708.6000

*p<0.05; **p<0.01; ***p<0.001 Logit coefficients reported State fixed effects included

Table A.9: Treatment/control group sizes

Control	Treatment 1	Treatment 2	Treatment 3	Treatment 4
0–15 minutes	15–30 minutes	30–45 minutes	45–60 minutes	more than 60 minutes
1,098,983	254,686	78,466	59,605	68,540

Table A.10: Effect of lines on turnout in matched dataset (2012 in-person voters only)

	(1)	(2)	(3)	(4)
Testament	0.0479	0.1147	-0.0834	0.0838
Intercept	(0.0312)	(0.0612)	-0.0834 (0.0673)	(0.0535)
Long wait	-0.0076***	-0.0107**	-0.0116**	-0.0161**
Long wan	(0.0019)	(0.0037)	(0.0043)	(0.0049)
AfrAm.	-0.0156***	-0.0166*	0.0043)	-0.0049
AIIAIII.	(0.0046)	(0.0078)	(0.0090)	(0.0099)
IT: : .	-0.0550***	-0.0586***	-0.0479***	-0.0838***
Hispanic				
0.0	(0.0049)	(0.0086)	(0.0110)	(0.0120)
Other race	-0.0697***	-0.0780***	-0.0250	-0.0329
	(0.0094)	(0.0173)	(0.0256)	(0.0304)
2006 turnout	0.1808***	0.1774***	0.1728***	0.1606***
	(0.0026)	(0.0050)	(0.0060)	(0.0067)
2008 turnout	-0.0194***	-0.0123*	-0.0150*	0.0006
	(0.0032)	(0.0059)	(0.0069)	(0.0075)
2010 turnout	0.2867***	0.2864***	0.2973***	0.2845***
	(0.0027)	(0.0051)	(0.0061)	(0.0069)
Age	0.0034***	0.0033***	0.0032***	0.0033***
	(0.0001)	(0.0001)	(0.0002)	(0.0002)
College educated	0.0002***	0.0003***	0.0002***	0.0002***
	(0.00002)	(0.00003)	(0.00004)	(0.00005)
White pct.	-0.0086	-0.0009	0.0139	0.0138
	(0.0071)	(0.0133)	(0.0145)	(0.0160)
Pop. dens. (logged)	-0.0062***	-0.0029	-0.0046*	-0.0083**
	(0.0008)	(0.0021)	(0.0022)	(0.0027)
Non-Eng. speaking pct.	-0.0469***	-0.0370*	-0.0538**	-0.0332
3 1	(0.0090)	(0.0165)	(0.0172)	(0.0184)
Med. inc. (logged)	0.0102***	0.0039	0.0199**	0.0036
(66)	(0.0030)	(0.0058)	(0.0062)	(0.0073)
'Treatment' group	15-30 min.	30-45 min.	45-60 min.	60+ min.
Observations (weighted)	111,623.7	29,765.9	21,352.8	18,186.4
Observations	196,128	53,049	38,363	30,200
\mathbb{R}^2	0.2679	0.2781	0.2838	0.2829

 $\label{eq:problem} \begin{array}{c} ^*p{<}0.05; \ ^{**}p{<}0.01; \ ^{***}p{<}0.001 \\ \text{OLS coefficients reported} \\ \text{State fixed effects included} \\ \text{Control group is always people where lines were between 0 and 15 minutes} \end{array}$

Table A.11: Effect of lines on turnout in matched dataset (mail-in voters place bo tests) $\,$

	(1)	(2)	(3)	(4)
Intercept	0.2520*	0.2777	0.1906	0.5666***
•	(0.1178)	(0.1618)	(0.1500)	(0.1720)
Long wait	-0.0081*	0.0169	0.0137	-0.0024
9	(0.0038)	(0.0090)	(0.0092)	(0.0104)
AfrAm.	0.0116	0.0248	0.0757**	-0.0041
	(0.0103)	(0.0211)	(0.0283)	(0.0254)
Hispanic	-0.0507***	-0.0389	-0.0393	-0.0696*
	(0.0077)	(0.0219)	(0.0210)	(0.0271)
Other race	-0.0188	0.0409	0.0579*	-0.0057
	(0.0106)	(0.0317)	(0.0256)	(0.0406)
2006 turnout	0.1706***	0.1621***	0.1485***	0.1162***
	(0.0056)	(0.0133)	(0.0140)	(0.0150)
2008 turnout	-0.0168*	-0.0010	-0.0742***	0.0156
	(0.0080)	(0.0180)	(0.0188)	(0.0214)
2010 turnout	0.2822***	0.2314***	0.3123***	0.2598***
	(0.0067)	(0.0158)	(0.0160)	(0.0184)
Age	0.0036***	0.0032***	0.0029***	0.0024***
	(0.0001)	(0.0004)	(0.0003)	(0.0004)
College educated	0.0001**	0.00004	0.0001	0.0001
	(0.00004)	(0.0001)	(0.0001)	(0.0001)
White pct.	0.0060	0.0479	0.0277	-0.0570
	(0.0152)	(0.0359)	(0.0404)	(0.0382)
Pop. dens. (logged)	-0.0082***	0.0058	0.0069	-0.0028
	(0.0018)	(0.0061)	(0.0055)	(0.0061)
Non-Eng. speaking pct.	-0.0298	-0.0664	-0.0278	-0.0120
	(0.0195)	(0.0480)	(0.0490)	(0.0482)
Med. inc. (logged)	0.0094	-0.0105	0.0081	-0.0069
,	(0.0061)	(0.0151)	(0.0145)	(0.0164)
'Treatment' group	15-30 min.	30-45 min.	45-60 min.	60+ min.
Observations (wtd.)	19,782.2	3,595	3,302.1	2,928.6
Observations	41,618	7,582	7,128	5,221
\mathbb{R}^2	0.2418	0.2174	0.2162	0.1905

 $\label{eq:p0005} \begin{array}{c} ^*\mathrm{p}{<}0.05; \ ^{**}\mathrm{p}{<}0.01; \ ^{***}\mathrm{p}{<}0.001 \\ \mathrm{OLS} \ \mathrm{coefficients} \ \mathrm{reported} \\ \mathrm{State} \ \mathrm{fixed} \ \mathrm{effects} \ \mathrm{included} \\ \mathrm{Control} \ \mathrm{group} \ \mathrm{is} \ \mathrm{always} \ \mathrm{people} \ \mathrm{where} \ \mathrm{lines} \ \mathrm{were} \ \mathrm{between} \ 0 \ \mathrm{and} \ 15 \ \mathrm{minutes} \end{array}$

Table A.12: Effect of lines on turnout in matched dataset (non-voters placebo tests)

	(1)	(2)	(3)	(4)
Intercept	0.0235	0.0159	-0.0479	0.0071
· ·	(0.0297)	(0.0573)	(0.0569)	(0.0681)
Long wait	-0.0023	-0.0014	-0.0016	0.0012
	(0.0019)	(0.0034)	(0.0038)	(0.0044)
AfrAm.	-0.0077	-0.0251***	-0.0063	-0.0232^{**}
	(0.0040)	(0.0066)	(0.0071)	(0.0080)
Hispanic	-0.0192***	-0.0219***	-0.0201**	-0.0304***
-	(0.0035)	(0.0060)	(0.0073)	(0.0081)
Other race	-0.0275***	-0.0303**	-0.0227	-0.0312^{*}
	(0.0051)	(0.0098)	(0.0124)	(0.0154)
2006 turnout	0.0589***	0.0334***	0.0620***	0.0309*
	(0.0050)	(0.0095)	(0.0107)	(0.0125)
2008 turnout	-0.0187***	-0.0110*	-0.0141**	-0.0186**
	(0.0026)	(0.0046)	(0.0052)	(0.0060)
2010 turnout	0.1396***	0.1357***	0.1310***	0.1760***
	(0.0054)	(0.0104)	(0.0113)	(0.0146)
Age	0.0010***	0.0012***	0.0011***	0.0018***
	(0.0001)	(0.0001)	(0.0001)	(0.0001)
College educated	0.0003***	0.0003***	0.0002***	0.0002***
	(0.00002)	(0.00003)	(0.00004)	(0.00005)
White pct.	0.0096	-0.0077	0.0228	-0.0037
	(0.0063)	(0.0110)	(0.0118)	(0.0129)
Pop. dens. (logged)	-0.0019*	-0.0023	0.0001	-0.0094***
	(0.0008)	(0.0021)	(0.0020)	(0.0025)
Non-Eng. speaking pct.	-0.0112	-0.0253*	-0.0330*	-0.0193
	(0.0073)	(0.0128)	(0.0129)	(0.0147)
Med. inc. (logged)	-0.0017	0.0008	0.0021	0.0035
	(0.0028)	(0.0049)	(0.0051)	(0.0060)
'Treatment' group	15-30 min.	30-45 min.	45-60 min.	60+ min.
Observations (wtd.)	51,297.3	15,045.4	11,469.7	10,333.9
Observations	88,610	27,634	22,511	18,272
\mathbb{R}^2	0.0368	0.0392	0.0360	0.0509

 $\label{eq:p0005} \begin{array}{c} ^*p{<}0.05; \ ^{**}p{<}0.01; \ ^{***}p{<}0.001 \\ OLS \ coefficients \ reported \\ State \ fixed \ effects \ included \\ Control \ group \ is \ always \ people \ where \ lines \ were \ between \ 0 \ and \ 15 \ minutes \end{array}$

Table A.13: How did lines impact the mode of future voting among 2012 in-person voters?

	DV: Mode of Voting in 2014:		
	In-person	Mail	
Intercept	-1.521***	-4.453***	
	(0.121)	(0.307)	
2012 wait (hrs.)	-0.044***	0.097***	
, ,	(0.008)	(0.017)	
AfrAm.	-0.054***	-0.088**	
	(0.010)	(0.033)	
Hispanic	-0.318***	-0.383***	
	(0.011)	(0.033)	
Other race	-0.360***	-0.308***	
	(0.016)	(0.045)	
2006 turnout	0.845***	0.758***	
	(0.006)	(0.019)	
2008 turnout	0.012	-0.295***	
	(0.008)	(0.025)	
2010 turnout	1.312***	1.107***	
	(0.006)	(0.021)	
Age	0.014***	0.041***	
	(0.0002)	(0.001)	
College educated	0.001***	0.002***	
	(0.0001)	(0.0002)	
White pct.	0.014	0.005	
	(0.017)	(0.057)	
Pop. dens. (logged)	-0.026***	-0.025***	
	(0.002)	(0.007)	
Non-Eng. speaking pct.	-0.236***	-0.385***	
	(0.025)	(0.078)	
Med. inc. (logged)	0.061***	0.013	
	(0.008)	(0.027)	

*p<0.05; **p<0.01; ***p<0.001 Observations: 774,836 Multinominial logit coefficients from one model reported DV reference category: Not voting in 2014 State fixed effects included

Table A.14: How did lines impact the mode of future voting among 2012 mail voters?

	DV: Mode of Voting in 2014:		
	In-person	Mail	
Intercept	-1.084**	-2.533***	
•	(0.333)	(0.273)	
2012 wait (hrs.)	0.027	-0.011	
	(0.022)	(0.017)	
AfrAm.	0.022	-0.057^{*}	
	(0.034)	(0.026)	
Hispanic	-0.176***	-0.253***	
	(0.040)	(0.022)	
Other race	-0.204***	-0.106***	
	(0.047)	(0.026)	
2006 turnout	0.762***	0.824***	
	(0.021)	(0.015)	
2008 turnout	0.080**	-0.140***	
	(0.027)	(0.019)	
2010 turnout	1.157***	1.255***	
	(0.022)	(0.016)	
Age	-0.003***	0.024***	
-	(0.001)	(0.0004)	
College educated	0.001***	0.001***	
	(0.0002)	(0.0001)	
White pct.	-0.035	-0.100*	
	(0.058)	(0.046)	
Pop. dens. (logged)	0.0005	-0.020***	
	(0.007)	(0.005)	
Non-Eng. speaking pct.	-0.404***	-0.348***	
	(0.089)	(0.060)	
Med. inc. (logged)	0.014	0.063**	
/	(0.027)	(0.019)	

*p<0.05; **p<0.01; ***p<0.001 Observations: 166,885 Multinominial logit coefficients from one model reported DV reference category: Not voting in 2014 State fixed effects included

Table A.15: How did lines impact the mode of future voting among 2012 nonvoters?

	DV: Mode of Voting in 2014:		
	In-person	Mail	
Intercept	-2.266***	-2.974***	
•	(0.203)	(0.393)	
2012 wait (hrs.)	-0.004	0.106	
	(0.015)	(0.067)	
AfrAm.	-0.094***	-0.183***	
	(0.022)	(0.051)	
Hispanic	-0.207***	-0.370***	
	(0.022)	(0.038)	
Other race	-0.323***	-0.149***	
	(0.029)	(0.043)	
2006 turnout	0.468***	0.384***	
	(0.016)	(0.032)	
2008 turnout	-0.083***	-0.411***	
	(0.014)	(0.028)	
2010 turnout	1.089***	0.936***	
	(0.015)	(0.030)	
Age	0.005***	0.026***	
	(0.0003)	(0.001)	
College educated	0.002***	0.003***	
	(0.0001)	(0.0002)	
White pct.	0.105**	0.037	
	(0.038)	(0.085)	
Pop. dens. (logged)	-0.012**	-0.114***	
	(0.005)	(0.009)	
Non-Eng. speaking pct.	-0.131*	-0.734***	
	(0.051)	(0.108)	
Med. inc. (logged)	0.019	-0.047	
	(0.017)	(0.034)	

*p<0.05; **p<0.01; ***p<0.001 Observations: 373,595 Multinominial logit coefficients from one model reported DV reference category: Not voting in 2014 State fixed effects included

Table A.16: Effect of end-of-day lines in Boston on future turnout

	Dependent	variable: Turno	ut change from	2012 to
	Nov. '14	Nov. '13	Sept. '13	Nov. '08
	(1)	(2)	(3)	(4)
Intercept	-0.4524***	-0.4190***	-0.2556**	0.0457
	(0.0650)	(0.0977)	(0.0771)	(0.0688)
Closing delay (hrs.)	-0.0060**	-0.0087^*	-0.0058*	-0.0003
	(0.0023)	(0.0035)	(0.0027)	(0.0025)
Nov. '10 turnout	0.2103***	0.3001***	-0.0625	0.0570
	(0.0345)	(0.0518)	(0.0409)	(0.0365)
Pct. White	0.0771***	0.1747***	0.0724***	-0.0262^*
	(0.0123)	(0.0186)	(0.0146)	(0.0131)
Median income (log)	0.0059	-0.0018	-0.0213**	-0.0106
	(0.0067)	(0.0101)	(0.0080)	(0.0071)
Pct. under 18	0.0601	0.0909	-0.0266	-0.0014
	(0.0393)	(0.0591)	(0.0466)	(0.0416)
Pct. over 65	0.0984*	0.1173	0.0926	0.0026
	(0.0406)	(0.0611)	(0.0482)	(0.0430)
Pct. college grad	-0.0102	-0.2009****	-0.0464*	0.0394*
	(0.0158)	(0.0237)	(0.0187)	(0.0167)
Observations	245	245	245	245
\mathbb{R}^2	0.6540	0.6175	0.2134	0.0362

*p<0.05; **p<0.01; ***p<0.001 OLS coefficients reported

Table A.17: Impact of 2012 wait on future turnout in Florida

Nov. 2014	Aug. 2014	Nov. 2008
(1)	(2)	(3)
0.3428***	-0.0816***	0.3191***
(0.0016)	(0.0012)	(0.0015)
-0.0046***	-0.0003	-0.0004
(0.0004)	(0.0003)	(0.0003)
-0.0330***	-0.0078***	0.0281***
(0.0005)	(0.0004)	(0.0005)
-0.0952***	-0.0300***	-0.0497***
(0.0023)	(0.0017)	(0.0021)
-0.0182***	0.0347***	0.0229***
(0.0009)	(0.0006)	(0.0008)
-0.0987***	-0.0273***	-0.0305***
(0.0008)	(0.0006)	(0.0008)
0.0016***	0.0026***	0.0028***
(0.00002)	(0.00001)	(0.00002)
0.0236***	0.0659***	0.0675***
(0.0007)	(0.0005)	(0.0007)
0.0326***	0.0749***	0.0288***
(0.0007)	(0.0005)	(0.0007)
0.3186***	0.1508***	0.3135***
(0.0006)	(0.0004)	(0.0005)
3,334	3,334	3,334
3,012,356	3,012,356	3,012,356
0.1520	0.1045	0.1608
	(1) 0.3428*** (0.0016) -0.0046*** (0.0004) -0.0330*** (0.0005) -0.0952*** (0.0023) -0.0182*** (0.0009) -0.0987*** (0.0008) 0.0016*** (0.0002) 0.0236*** (0.0007) 0.0326*** (0.0007) 0.3186*** (0.0006) 3,334 3,012,356	$\begin{array}{cccc} (1) & (2) \\ 0.3428^{***} & -0.0816^{***} \\ (0.0016) & (0.0012) \\ -0.0046^{***} & -0.0003 \\ (0.0004) & (0.0003) \\ -0.0330^{***} & -0.0078^{***} \\ (0.0005) & (0.0004) \\ -0.0952^{***} & -0.0300^{***} \\ (0.0023) & (0.0017) \\ -0.0182^{***} & 0.0347^{***} \\ (0.0009) & (0.0006) \\ -0.0987^{***} & -0.0273^{***} \\ (0.0008) & (0.0006) \\ 0.0016^{***} & 0.0026^{***} \\ (0.00002) & (0.00001) \\ 0.0236^{***} & 0.0659^{***} \\ (0.0007) & (0.0005) \\ 0.0326^{***} & 0.0749^{***} \\ (0.0007) & (0.0005) \\ 0.3186^{***} & 0.1508^{***} \\ (0.0006) & (0.0004) \\ \hline 3,334 & 3,334 \\ 3,012,356 & 3,012,356 \\ \end{array}$

*p<0.05; **p<0.01; ***p<0.001 County fixed effects included WLS coefficients reported

Voting by Mail in a VENMO World: Assessing Rejected Absentee Ballots in Georgia

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Abstract

Due to the COVID-19 threat to in-person voting in the November 2020 election, state and local election officials have turned to mail voting as a potential solution. Vote-by-mail (VBM) may not be a panacea, however. Even though state election codes lay out guidelines and uniform requirements for confirming the eligibility of voters casting mail ballots, some voters may lack information on how to correctly fill out or return a VBM envelope, leaving local election officials considerable discretion when validating mail ballots. This is particularly concerning if underrepresented subgroups of the electorate—racial and ethnic minorities, young voters, female, and those newly registered—are disproportionately more likely to have their identifying information on the back of a VBM ballot return envelope challenged. Merging Georgia's statewide voter files with county-level U.S Census Bureau data, we analyze VBM ballot rejection rates in the state's 2018 General Election. Using Heckman sample selection models, we find that newly registered, young, female, and minority voters have rejection rates that are higher compared to their counterparts, varying from 4 to 7 percentage points.

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In recent elections, in a growing number of states, voters have cast their ballots by mail (United States Election Assistance Commission 2017; Mann 2014). Despite most states having uniform election codes regulating vote by mail (VBM) ballots, local election officials have considerable discretion over the standards by which they evaluate mail ballots. In contrast to voting in person, when voters can respond in real-time to questions about their eligibility to vote, the identity of voters casting ballots by mail is evaluated remotely by election administrators, leaving little recourse for voters to easily rectify any problems with their ballots. With the push for mail voting as a response to the coronavirus pandemic, we are interested in understanding whether there are any existing inequities in which voters have their VBM ballots rejected.

Generally speaking, there are two reasons why a VBM ballot might be rejected: an error committed by a voter, or the discretion of an election official remotely confirming a VBM voter's eligibility. While voters may make mistakes in the process of returning their ballot, for their part, local election officials have considerable leeway in how they interpret statutes for confirming voter eligibility (Kimball and Kropf 2006). Indeed, in other election administration venues, there is evidence that street-level bureaucrats may discriminate against racial and ethnic minorities when providing public services (White, Nathan and Faller 2015; Butler and Broockman 2011).

The challenges of verifying VBM ballots were on full display during the Georgia's November 2018 election. The state received national attention for their rejection of VBMs, after high numbers of ballots were rejected from Gwinnett County, a suburban county with a growing population of racial and ethnic minority voters. More recently, in the midst of the coronavirus pandemic that upended primary elections held in Spring 2020, Georgia's Secretary of State opted to mail every active registered voter an absentee ballot application, in addition to giving them the option of casting an in-person ballot. During an election year where the use of mail in ballots is being discussed as an alternative to in-person voting, understanding discrepancies in how VBM ballots are verified is vital to electoral democracy.

This paper assesses the challenges associated with the verification of VBM ballots, develops a set of theoretical expectations for whether certain groups of voters are more likely to cast a ballot that is rejected, and tests these expectations using VBM ballots and statewide voter file data from the 2018 midterm election in Georgia. To preview our findings, our Heckman sample selection models show that younger voters, female, minority, and recent registrants were more likely to have their ballots rejected (both on-time and late ballots). We argue a combination of individual-level and systemic factors play a role in rejection rates. Young voters and new registrants, may lack familiarity with the voting process and be more apt to make mistakes leading to ballot rejection (Bennett 1991; Shino and Smith 2018). For racial and ethnic minority voters, we suggest limited access to accurate information about how to properly cast a mail ballot makes them more likely to make mistakes (Barreto, Cohen-Marks and Woods 2009; White, Nathan and Faller 2015). More systemically, it is possible that racial and ethnic minority voters have their ballots rejected for reasons related to implicit "taste-based" discrimination by local election officials (White, Nathan and Faller 2015).

While our findings do not directly test for the causal pathways explaining VBM ballot rejections, they align with our assumptions that there may be both individual-level and systemic factors explaining why these groups of voters are more likely to cast ballots that are rejected for mistakes, even if received on time, or timeliness. Our findings raise the concern that not all VBM voters are treated equally, one that is all the more acute in the context of widespread discussion about the expansion of mail balloting in response to the COVID-19 pandemic.

1 Why Might Mail Ballots be Rejected?

The decision at the center of whether a VBM ballot is counted is inherently subjective.

The validation of mail ballots rests in the hands of local election officials who are charged with determining whether an eligible voter has met the criteria to have their mail ballot counted. Like most aspects of election administration in the United States

, the process by which ballots are counted varies from state to state, and even from local jurisdiction to jurisdiction within states. Explanations for why some VBM ballots are rejected in a subjective administrative process, then, rest on both individual-level and systemic factors, and they are not necessarily mutually exclusive.

¹See "All-Mail Elections (aka Vote-by-Mail)," National Conference of State Legislatures, available athttps://www.ncsl.org/research/elections-and-campaigns/all-mail-elections.aspx (last accessed March 24, 2020).

1.1 Individual-Level Explanations

A prospective VBM voter needs to know where, when, and how to request a mail ballot application, how to fill out the ballot, how to complete the voter's certificate and other information on the return envelope, possibly provide postage, and have a sense of how long it will take for the ballot to make it to the local election office. While these steps may be commonplace to some, it is possible that certain voters are more predisposed to making mistakes in the process of requesting and casting a mail ballot.

Because they are new to the voting process, young voters and new registrants may be more prone to make mistakes when voting a mail ballot. For young voters, the art of signatures may not be held in high regard. Online, touch-screen, and scratch pad authentication has supplanted the need for honing one's signature. VBM, though, requires voters sign the back of the official return VBM ballot envelope for their vote to count. Not all voters have equally stable signatures, making it more likely for some registrants to have a signature on file in their local elections office that may not match their current signature (Suttmann 2020). Advocates of VBM systems like Neal Kelley, a former president of the California Association of Clerks and Election Officials, does admit that there "are difficulties on occasion" with poor penmanship, and forensic experiments have found a non-zero chance of real signatures being rejected as not matching and forged signatures being accepted as valid (Herbst and Liu 1977). Even in states that have transitioned to all-mail voting systems, election officials concede that not every voter sign their ballots legibly. "Penmanship oddly enough is pretty consistent throughout a person's life," Washington Secretary of State Kim Wyman has claimed, "and election administrators get training from signature experts at our State Patrol" in order to decipher cast ballots, yet "[s]ometimes we'll see our younger voters change their signature style when they move into a professional setting" (Moretti 2014).

Millennial and generation-Z cohorts might also have less familiarity with the U.S. Postal Service. Knowing where to buy stamps or drop-off letters, for example, may be a barrier unique to these voters, as they have less experience with, or even preference for, using "snail mail" to communicate (USPS 2018). Theirs is a Venmo world—communication or transactions via email seem archaic. As such, it would not be surprising if young voters have more difficulty negotiating the arrival, or the return, of a VBM ballot through the Postal Service, as they are less engaged with the "old-fashioned" technology used to vote by mail (Delli Carpini 2000).

1.2 Systemic Explanations

In addition to some individuals not being as fluent in the mail voting process, which may lead to a VBM ballot being rejected, there may also be systemic factors conditioning the rejection of mail ballots. Election officials may differ not only in the administration of VBM ballots, mail delivery services that transport ballots to and from voters may differ, too. As such, the context in which a voter casts a VBM ballot may help to explain why certain groups of voters are more likely to cast a ballot that is late or rejected.

Research on services in the welfare state provide insight to these disparities in administrative processing of VBM ballots. Racial and ethnic minority constituents, on average, receive lower quality service in their interactions with bureaucratic entities. Nonwhite recipients of Temporary Assistance for Needy Families (TANF) benefits are penalized for violating rules more than White recipients (Keiser, Mueser and Choi 2004). White applicants also tend to receive higher quality information when inquiring about welfare benefits (Ernst, Nguyen and Taylor 2013), and White applicants for public assistance tend to receive more than their minority counterparts (DeSante 2013). Perhaps not surprisingly, scholars have found these patterns extend to administrative services provided by election officials. Questions about how absentee ballots are counted fit within a broader literature that considers whether local election officials treat certain groups of voters differently in their implementation of election laws and provision of election related services (Kimball and Kropf 2006; White, Nathan and Faller 2015; Butler and Broockman 2011).

Much of this research focuses on whether racial and ethnic minority voters face stricter scrutiny in their interactions with election administration. There is a range of evidence suggesting these voters may face greater barriers when voting in person as a function of their racial and ethnic background and discrepancies in election administration (King and Barnes 2019; Pettigrew 2017). Evidence from New Mexico, for example, shows that Hispanic, male, and Election Day voters were more likely to be asked for identification by poll workers when none was required (Atkeson et al. 2014). Racial and ethnic minority voters are also more likely to experience longer lines at polling places a pattern that is likely the result of how election

²When it comes to how these structural condition affect an individual's political participation, there is ample scholarship, as Michener (2018, p.29) observers, documenting "institutionally embedded contexts affect individuals' experiences with policies, which can in turn affect their political capacity and shape a wide range of participatory actions."

administrators allocate resources (Pettigrew 2017). Evidence from Los Angeles reveals that nearly 30 percent of poll workers incorrectly told observers it was the law in California to show identification (Barreto, Cohen-Marks and Woods 2009). Moreover, the percentage of poll workers who made these claims were higher in precincts that had more minority voters. Research from other electoral jurisdictions also shows that Black and Hispanic registered voters reported they were more likely than White voters to be asked to show identification (Ansolabehere 2009; Cobb, Greiner and Quinn 2010).

Fewer studies have directly considered whether younger voters face systematic bias in the voting process. Yet, there are several barriers these voters face in the electoral process. They are more likely to face structural barriers as a result of changes in election administration: they experience longer lines at polling places (Herron and Smith 2013; Cottrell, Herron and Smith N.d.), and are more likely to be negatively affected by polling location changes (Amos, Smith and Ste.Claire 2017; Shino and Smith 2020). They are also less likely to have information about how to vote, as young registrants are not as frequently contacted and mobilized by campaigns (Bennett 1991; Michelson 2005) and are not yet conditioned to be habitual voters (Shino and Smith 2018; Highton and Wolfinger 2001). As a result, they might be less familiar with the ins-and-outs of the mechanics of how to cast a ballot (Franklin 2004).

As with in-person voting at local polling sites, research on mail voting suggests that young and racial and ethnic minorities may also face additional barriers when casting a ballot that is processed and tabulated remotely. For example, in their study of mail voting in Los Angeles County, Alvarez, Hall and Sinclair (2008) found that language minority voters who requested non-English ballots had a much lower likelihood of their ballots being counted compared to other absentee voters. Although not central to their theoretical expectations and analysis, Alvarez, Hall and Sinclair (2008) also find that younger voters—those between the ages of 18 and 24—are more likely to fail to return their ballot, and of those that are returned, theirs are less likely to be counted.

Another structural condition to consider is that some voters may be less likely to receive high quality information about voting by mail. Local election officials play an important role in educating voters about all facets of the voting process. There is considerable variation, however, in the lengths local election administrators will go to in order to ensure every eligible voter who wants to cast a ballot is able to do so (Merivaki and Suttmann-Lea 2019). In Georgia, the State Election Board has a duty to "formulate and conduct" voter education programs about

procedures for voting by absentee ballot and at the polls. These activities are, however, subject to funds being appropriated by the state's General Assembly. Georgia's election code does not lay out more specifics about what such a program should look like.³ In short, while voters may make mistakes in the process of returning absentee ballots, local election officials also play a role in educating voters about the correct way to return an absentee ballot (Adona et al. 2019).

Scholars have found that Hispanic and Black voters are more likely to receive no or lower quality responses relative to their White counterparts when inquiring about the voting process, and precincts in minority neighborhoods are more likely to be of low quality, be difficult to find, and have long lines (Butler and Broockman 2011; White, Nathan and Faller 2015; Barreto, Cohen-Marks and Woods 2009). This evidence is in line with the literature documenting bias in the provision of welfare services to racial and ethnic minorities. In short, these voters may be more likely to make mistakes on VBM ballots, but there may also be systematic differences in the type of information available to them about how to properly process a mail ballots.

Furthermore, evidence from Florida that young and racial and ethnic minority voters cast absentee ballots that are disproportionately rejected. Smith (2018) finds that in the 2016 general election, voters under the age of 30 made up only 9.2 percent of all absentee ballot voters in Florida, but accounted for 30.8 percent of all rejected mail ballots. Similarly, absentee ballots cast by Black, Hispanic, and other racial and ethnic minorities were at least two and a half times as likely to be rejected as those cast by White absentee ballot voters. During the 2016 general election, rejection rates in Florida for these groups were not uniform across the state's 67 counties, suggesting a lack of uniformity in the state's mail ballot counting practices. Research on the counting of provisional ballots in Florida and North Carolina, another area of election administration that involves a remote interaction between voters and election officials, echoes these patterns of ballot rejections for young voters (Merivaki and Smith 2016, 2020).

Summing up, there is good reason to expect that both individual-level and systemic factors condition whether a mail ballot will be accepted as valid or not. Because the process of authenticating an voter's identity who casts a VBM ballot is inherently subjective, both factors likely influence whether a ballot is accepted as valid.

³See GA Code § 21-2-31(9)

2 Expectations

The central question when evaluating why some VBM ballots are rejected turns on with whom the responsibility for a rejected ballot lies. At the individual level, voters can make mistakes that can be cause for election officials to reject a mail ballot. In Georgia, when voters fill out their absentee ballots, the information on the envelope includes an oath, the name of the elector, and any other "required identifying information." This includes the voter's residence and address, the year of the voter's birth, and a voter's signature or mark. Voters fill out this information and swear to the oath printed on the envelope.⁴ If this information is missing, incorrect, or if the voter's signature does not match what is on file with a voter's registration record, it is grounds for rejection by election administrators. Moreover, if the ballot is not returned by the close of the polls on Election Day, that is also grounds for rejection.⁵

For ballots returned on time but nevertheless rejected, the possibility that election administrators may be more likely to reject ballots cast by racial and ethnic minorities, young voters, and new registrants depends, in part, on the information provided by the voter on the VBM ballot return envelope. When the ballot is received, a voter registrar or absentee ballot clerk compares the identifying information on the oath on voter's return envelope with the information on file under the voter's registration. They also compare the signature on the oath with the signature on the voter's voter registration card. If a signature is missing, "does not appear to be valid," if the ballot return envelope is missing information, or if the information provided by the voter does not match what is in the voter's registration file, the official may reject the ballot. Some jurisdictions will document the reason for rejection on the ballot itself. In Georgia, there is little guidance in election code as to what constitutes a "valid" signature, and it is largely left up to the determination of the official counting the ballot. Georgia election code states that "the board of registrars or absentee ballot clerk shall promptly notify the elector of such a rejection," although it does not specify what is meant by "promptly" nor the means through which the voter should be notified.⁶.

We expect that new registrants, to be both more likely to cast a late absentee ballot, and also more likely to have even on-time ballots rejected for mistakes made in the process of

⁴See GA Code § 21-2-384 (c)(1)

⁵See GA Code § 21-2-386 (a)(1)(F)

 $^{^6}$ See GA Code § 21-2-386 (a)(1)(B)(C)

filling out their ballot because they are less familiar with the voting process. They also are not seasoned voters, we also suspect that young voters in particular—because they are more prone to procrastination and less likely to be familiar with using traditional mail—are more likely to cast a late absentee ballot and, if they do get their ballot in on time, more likely to make mistakes that lead to ballot rejection (Bennion and Nickerson 2011; USPS 2018).

We rely on individual-level data to examine the rejection of mail ballots in the 2018 General Election. The systematic disparities that racial and ethnic minorities experience in other areas of bureaucratic services and interactions with election officials elsewhere lead us to expect that these voters who cast mail ballots may be less likely to have access to the information needed to cast a correctly filled out and timely mail ballot (Barreto, Cohen-Marks and Woods 2009; DeSante 2013; Keiser, Mueser and Choi 2004; Pettigrew 2017). Moreover, we expect that minority voters may also face systemic—albeit presumably implicit—biases as local election officials evaluate their ballots. The causal pathway through which this discrimination might occur in the context of verifying absentee ballots is based on the names of voters listed on ballot envelopes. While there is no direct information about a voter's racial or ethnic background on return VBM ballot envelopes, first names and surnames can be revealing of racial and ethnic identity (Butler and Homola 2017). This theoretical expectation is supported by causal evidence that local election officials and elected state legislators provide constituents with Latino and African-American names with either no response or lower quality responses when they are e-mailed with questions about the voting process (White, Nathan and Faller 2015; Butler and Broockman 2011). It is possible that similar dynamics are at play in the evaluation of mail ballots by some election officials.

Generally, there are two possible explanations for why these discrepancies exist. One is on the basis of "taste-based" discrimination, a more traditional form of discrimination based on dislike for members of certain groups. The other is on the basis of strategic discrimination. Local election officials may draw assumptions about candidate or party preferences based on the putative race of the voter and more closely scrutinize those ballots. While there is some evidence that local election officials implement elections in ways that favor their party (Kropf, Vercellotti and Kimball 2013), a nationwide field experiment with local election officials suggests "taste-based" discrimination is likely at play when it comes to differences in the rate of ballot rejections between White and racial and ethnic minorities (White, Nathan and Faller 2015). Overall, a combination of systemic differences in access to quality information about the voting

process shaping individual-level mistakes, and systemic biases in the evaluation of VBM ballots cast by putative racial and ethnic minorities, lead us to expect that such voters will be both more likely to cast late ballots, and that those who return ballots on time will be more likely to have those ballots rejected.

While it is possible that there is also implicit bias operating in local election officials' evaluation of ballots cast by young voters, there is less evidence that young voters consistently experience discrimination when they engage with election officials. In short, we have less reason to believe there is strategic, or "taste-based," discrimination at play with mail ballots cast by young voters. However, in Georgia, beginning in the 2018 General Election, identifying information on the outer absentee ballot return envelopes was changed to include birth year, whereas previously it had been birth month and day7. This simple cue of a voter's age through their birth year on the envelope could be a possible mechanism through which election officials tasked with evaluating ballot information, more closely scrutinized the VBM ballots of young voters. There may be strategic reasons, for example, for some local election officials to be wary of VBM ballots cast by young voters under, the assumption they may be more likely to support progressive candidates, and for these same reasons, for other local election officials to be more permissive in accepting such VBM ballots. Local election officials in Georgia are not officially affiliated with a political party, so it is not possible to test this mechanism along partisan lines. Moreover, despite the change in the law, only some counties used new outer envelopes that asked for voters' birth year. Others continued to use old VBM return envelopes, meaning the key source of voter information that might offer a jurisdiction level explanation for differences in youth rejections was not present across all counties (Joyner and Peebles 2018).

While the data we use do not allow us to directly test for the mechanisms that explain rejection rates of absentee ballots by different voters, it is important to consider both how individual voter behavior and local election official decisions may explain the rejection of absentee ballots (Hood III and Bullock III 2011). Given the previous literature demonstrating bias against racial and ethnic minority voters in other areas of election administration, as well as in the administration of voter identification laws, our first hypothesis is that racial and ethnic minority voters are more likely to have had their ballot rejected than White voters. Our second hypothesis draws from evidence that younger voters face greater barriers in the voting

 $^{^{7}}$ See GA Code \S 21-2-384 (c)(1)

process and are more likely to have absentee ballots rejected. We expect that younger voters to be disproportionately more likely to have their absentee ballots rejected relative to older voters. Our *third hypothesis* is that individuals who registered to vote in 2018 are more likely to have their ballot rejected compared to their counterparts because of their lack of familiarity with the vote by mail process as new registrants. We expect all three of these hypotheses to hold for VBM ballots irrespective of whether they are rejected because they were received *after* the state's Election Day deadline for absentee ballots to reach the local election office, and for VBM ballots received on time but that rejected for other reasons.

3 Data and Empirical Framework

We utilize individual-level administrative data from the Georgia Elections Division, and county level data from the U.S. Census Bureau and Bureau of Labor Statistics. Using voter's unique registration ID number, we merge the October 2018 snapshot of the statewide voter list to the October 17, 2019 statewide voter history file and the January 2, 2019 statewide absentee file. First, we look at a series of descriptive statistics, and then estimate Heckman sample selection models to analyze ballot rejection patterns while correcting for the self-selection bias of those voters who chose to opt-in and vote by mail. Our main dependent variable is ballot status, which is coded 1 if the VBM ballot was rejected and 0 if it was coded as accepted. We introduce two new dependent variables, differentiating by timing of when the VBM ballots were received by local election officials: rejected absentee ballots that were received before or on Election Day (on-time), and rejected absentee ballots that were received after the Election Day (late).

Our primary independent variables are a registrant's race, age, and registration year. In our estimations, registrant's race is a dummy variable indicating whether a voter is Black, Hispanic, Asian, or other race/ethnicity, with White registrants excluded as the base category. The age of the voter is a categorical variable for the following age groups: 18-22, 23-29, 30-34, 35-44, 45-59, and 60 and older. To account for a voter's familiarity with the absentee voting process

⁸The snapshot of the absentee file of January 2, 2019 had 37,913 duplicates, meaning that unique registrants had two or more entries. We removed duplicated entries by keeping only the record identifying the ballot status as an A (accepted; 17,202 registrants) or R (rejected; 336 registrants), discarding the C (canceled) and S (spoiled) cases.

in Georgia, we include a variable for the voter's registration year, under the assumption that voters who are more recently registered may be more likely to make a mistake that would lead to their VBM ballot being rejected by local election authorities.

To control for other unobserved county-level differences, drawing from Census data we include in our model county per-capita income and education as an aggregate-level control variables. We control for county population size to account for the administrative capacities of local election officials; larger counties may be allocated greater resources that could influence the counting of absentee ballots.⁹ All models are estimated with county-fixed effects and robust standard errors clustered by county.

Our analysis begins by mapping the vote by mail rejection rate by county. As shown in Figure 1, the rejection rate varies considerably across Georgia's 159 counties. For example, counties such as Polk (13.1%), Taylor (13.04%), Pickens (12.45%), Clay (11.32%), Putnam (10.25%), and Gwinnett (6.3%) had higher rejection rates compared to other counties.

[Figure 1 about here]

Figure 1, indicates that there is a high variation of the VBM rejection rates across counties. However, the geographic heterogeneity does not address one of the main concerns during the 2018 Georgia midterm elections, that is, whether absentee ballots cast by minority voters were rejected at a higher rate compared to absentee ballots cast by White voters. Figure 2(a), shows a forty-five degree plot comparing the rejection rate of absentee ballots cast by Blacks and Whites for each county. Counties that fall on the forty-five degree line show no difference on the VBM rejection rate for Black and White voters. However, we observe that the majority of Georgia counties fall above the line. In other words, absentee ballots cast by Black voters were rejected at a higher rate across Georgia's counties as compared to ballots cast by White voters. For example, Polk county had a rejection rate of about 16 percent for VBMs cast by Black voters, compared to 8 percent for White voters. Similar patterns are observed for other counties such as Taylor, Warren, and Putnam to name a few.

[Figure 2 about here]

⁹For example, according to Georgia's elections code of the 159 counties in the state, any with a population of over 550,000 are allocated an additional registrar's or absentee ballot clerk's office, or place of registration, for the purpose of receiving and voting absentee ballots. See GA Code § 21-2-383(b)

Figure 2(b) shows the absentee ballot rejection rate for Hispanic voters versus White voters across counties. Similar to the patterns of VBMs cast by Black voters, Hispanic voters faced higher rejection rates than White voters. For example, Putnam and Thomas counties had a rejection rate of roughly 20 percent for absentee ballots cast by Hispanic voters. According to Figure 2(b), many more counties rejected VBM votes cast by Hispanic voters compared to White voters.

This descriptive evidence motivates and sets the foundation of our econometric analysis described in the following section. Absentee ballot rejection rates vary across counties, but what explains this variation? Are certain subgroups of registrants more likely than others to be subjected to having their VBM ballots rejected? One confound, however, is that voters who choose to vote an absentee ballot in Georgia may be different than those registrants who vote in-person. As such, to take into account the sample selection bias that may arise to nonrandom sampling of VBM voters, our identification strategy uses Heckman's sample selection model, which we describe below.

3.1 Sample Selection Model

Let each voter i in our sample be characterized by the vector (r_i, v_i, w_i, ψ_i) which takes values in the set $R \times V \times W \times \Psi$. Here, r_i and v_i are binary variables where the former takes unity if i's vote by mail was rejected and the latter takes unity if voter i voted by mail. We cannot observe if a vote was rejected or accepted if the voter chose not to vote by mail, (r_i, v_i, w_i) is only observed for a sample of voters with $v_i = 1$. Here w_i is a vector of voter's characteristics and ψ_i a vector of unobserved characteristics.

We specify the parametric selection equation of a registrant's choice to cast a mail ballot (hereon, VBM equation) and the parametric outcome equation of the VBM ballot being rejected (hereon, Rejection equation) as follows,

VBM equation :
$$v_i^* = z_i' \gamma + \epsilon_i, v_i = 1[v_i^* > 0],$$
 (1)

Rejection equation :
$$r_i = x_i'\beta + \delta R_i + u_i$$
 (2)

where v_i^* is a latent variable for voting a VBM ballot; $1[\cdot]$ is an indicator function which equals unity if the bracketed logical condition holds; $w_i \equiv (z_i', x_i')'$ where z_i and x_i are both vectors of the characteristics of the voters and for identifying the estimates in the Rejection equation,

we impose an exclusionary restriction by allowing z_i to have at least one variable that is not contained in x_i . The categorical variable \mathcal{R}_i denotes the race of the voter (baseline White); and δ is our estimand of interest.

The VBM equation captures the selection mechanism of how a voter decides whether to cast a ballot by mail or not. We employ a random utility model. Let each voter i face two alternatives $j = \{a, o\}$, vote absentee (j = a) or other (j = o). The utility that voter i receives from choice j is decomposed into two components, the systematic observed component \tilde{V}_{ij} that is known up to some parameter and the unsystematic unobserved component ϵ_{ij} , i.e. $\tilde{U}_{ij} = \tilde{V}_{ij} + \epsilon_{ij}$. We let $v_i^* \equiv \tilde{U}_{ia} - \tilde{U}_{io}$. As such, if $\tilde{U}_{ia} > \tilde{U}_{io}$ then the utility that voter i receives from voting absentee, (j = a), is higher compared to the other alternative, (j = o). As shown in the VBM equation, $v_i^* \equiv \tilde{U}_{ia} - \tilde{U}_{io} = z_i'\gamma + \epsilon_i$, where the systematic component is linear in parameters. In the VBM equation, the vector of individual/county characteristics, z_i , includes voters' age, race, gender, and county-level information for education, per-capital income, and population.

Using ordinary least squares (OLS) to estimate the parameters in the Rejection equation would lead to inconsistent estimates for the subsample of observations with $v_i = 1$. To overcome this misspecification, Heckman (1976, 1979) proposes a two-stage approach. Following Heckman (1976, 1979), we impose the following distributional assumptions on the stochastic components ϵ_i and u_i of equations (1) and (2) respectively. Suppose that u_i and ϵ_i follow a bivariate Gaussian distribution with zero means, standard deviations σ_u and σ_{ϵ} , and correlation ρ and let (u_i, ϵ_i) be independent of z_i . Using this assumption, and taking conditional expectation on the Rejection equation (2), we have the following

$$E[r_i|x_i, \mathcal{R}_i, v_i = 1] = x_i'\beta + \delta \mathcal{R}_i + E[u_i|x_i, \mathcal{R}_i, \epsilon_i > -z_i'\gamma]$$

$$= x_i'\beta + \delta \mathcal{R}_i + \mu \frac{\phi(z_i'(\gamma/\sigma_\epsilon)}{\Phi(z_i'(\gamma/\sigma_\epsilon)})$$
(3)

where $\mu = \rho \sigma_{\epsilon}/\sigma_{v}$ and $\frac{\phi(z'_{\epsilon}(\gamma/\sigma_{\epsilon}))}{\Phi(z'_{\epsilon}(\gamma/\sigma_{\epsilon}))}$ is the inverse Mills ratio. The inverse Mills ratio is the ratio of the probability density function ϕ and cumulative distribution function of the standard normal distribution. To obtain an estimate of $(\gamma/\sigma_{\epsilon})$ in equation (3), we use the distributional assumption and explore the latent structure of the VBM equation (1). Hence, we estimate the parameters of the model using Heckman's two-step approach as follows:

■ First step: Estimate the VBM equation over the entire sample using a Probit model to

obtain an estimate for γ/σ_{ϵ} . Compute the inverse Mills ratio for each voter in the sample who selected to vote by mail.

■ Second step: Estimate by least squares regression the parameters β and δ in the Rejection equation by including the inverse Mills ratio as a regressor for the subsample of voters who chose to vote by mail (see equation (3)).¹⁰

In the second step, the vector of individual/county characteristics, x_i , includes voters' race, age, gender, and county fixed-effects. Using Heckman's approach, we are able to address the nonrandom "sampling" which is due to a voter's choice (that is, selection) to vote by mail in the 2018 election. Using this framework, we can identify any evidence if VBM votes cast by young, newly registered, or minority voters are more likely to be rejected, compared to those cast by White voters, if the coefficients for age, 2018 registrants, and race/ethnicity, δ , are significantly greater than zero.

4 Empirical Analysis

The descriptive results have shown that VBM ballots cast by minority voters had a higher rejection rate across counties compared to Whites. In Figure 3, we look at the trend of rejections proportionate to the VBM ballots cast within a race/ethnicity group. Figure 3(a), shows that as the percentage of absentee ballots cast by Black voters increases so does the percentage of the rejected ballots cast by Blacks. A different pattern is observed for VBM ballots cast by Whites. While Figure 3(b), shows that as the percentage of absentee ballots cast by Whites increases, the rejection rate for absentee ballots cast by Whites decreases. No clear pattern is observed for Hispanics, Figure 3(c).

[Figure 3 about here]

We now turn to a voter's age and whether the voter was recently registered or not (denoted by those registered in 2018). Figure 4 displays the probability of VBM ballots being rejected across each age group, or date of a voter's registration. We calculate the inverse empirical cumulative distribution function of rejection rates for each age group (registration year) within

¹⁰We also test for selectivity bias using a simple t-test on the estimated parameter of the inverse Mills ratio. That is, using the results from the second step we can infer whether there is evidence of selectivity bias by testing the null hypothesis, $H_0: \mu = 0$.

each county and their respective probability density functions. The rejection rates are computed using the following formula,

$$p_{ij} = \frac{\sum_{k=1}^{n_j} \sum_{r:r=1} \mathcal{I}_{ijkr}}{\sum_{k=1}^{n_j} \mathcal{I}_{ijk}} \quad \text{for every } i = 1, \dots, N \text{ and } j = 1, \dots, n_i$$
 (4)

where \mathcal{I}_{ijkr} is equal to unity if the VBM ballot of voter k in age group (registration year) j and county i is rejected, r=1, and \mathcal{I}_{ijk} is equal to unity if VBM voter k is in age group (registration year) j of county i. Simply put, the numerator represents the number of VBM ballots rejected for each age group (registration year) within each county, and the denominator represents the number of VBM voters in each age group within each county. From Figure 4(a) it is clear that the probability of rejection is higher for the age group 18-22 when compared to all the other age groups. Therefore, we say that the cumulative distribution function of the age group 18-22 first order stochastic dominates (FOSD) all the other age groups cumulative distribution functions. We observe the same pattern in Figure 4(c), where there is a wide gap between the inverse cumulative distribution functions of VBM voters registered to vote for the first time in 2018 and those registered prior to 2018. Figure 4(b) and 4(d) show the difference in probability distributions of VBM rejection rates for age group and registration year.

[Figure 4 about here]

The analysis above uses rejected VBM ballots, which are indicated as such in the statewide voter history file. However, not all rejected ballots are the same or should be treated as such. Some absentee ballots have been rejected due to a missing or mismatched signature, or an unchecked oath box, but others have been rejected because they were received by county registrars after the Election Day deadline. In Table 1, we examine the overall rates of rejected VBM ballots, broken down by age group, race, registration time (2018 or before), and gender. According to Table 1 Panel A, younger cohorts were more likely to have their VBM ballots received late compared to older voter cohorts. Referring to Panel B, we observe that minority voters were more likely to have their ballot rejected compared to White voters, regardless of whether their ballot was returned on time or not. Panel C, shows that newly registered (those who registered in 2018) were more likely to have their VBM ballot not be received on time than those who were registered prior to 2018.

[Table 1 about here]

To analyze ballot rejection patterns across racial groups, we estimate Heckman's two-stage sample selection model, shown in Table 2. In Table 2, only the Rejection equation (outcome equation) estimates are shown. The outcome variable across all three models is ballot status, which in Model 1, is coded 1 if the absentee ballot was rejected and received before or on Election Day by election officials and zero if accepted. In Model 2, the outcome variable is coded 1 if the absentee ballot was rejected and the ballot was received after the Election Day and zero if accepted. In Model 3, the outcome variable is set to unity if the absentee ballot was rejected and zero if accepted, regardless of the time when it was received. From the Georgia voter file, we use individual level information about registrant's race, sex, age, and registration year. To complement the individual-level analysis, we draw on county-level per-capita income data from the U.S. Bureau of Labor Statistics and data on a county's education level and population from the U.S. Census Bureau.

[Table 2 about here]

We estimate equations 1 and 3 using Heckman's two-step approach, explained above. The output in Table 2(1), shows that Black voters who cast an absentee ballot that was received ontime, were 4.3 percentage points more likely of having their ballot rejected compared to White voters. Similar patterns are observed for other minority groups. Also, younger voters 18-22 year-olds had a higher probability of having their ballots rejected compared to the older cohorts. For example, voters age 45-59 years old were 7.5 percentage points less likely to have their ballot rejected compared to 18-22 year-olds. While, female were 0.5 percentage points more likely to have their ballots rejected than male. Interestingly, in Table 2(2), the aforementioned effects are more pronounced. Minority, young, and newly registered voters had a higher probability of having their absentee ballots received late, and therefore rejected, compared to White, older, and voters who registered prior to 2018. Black absentee voters were 7.6 percentage points more likely to have their absentee ballot rejected because they were received late by local officials, compared to White VBM voters. Female voters were 1.5 percentage points more likely to have their ballot rejected compared to male. The same pattern holds true for younger and newly registered voters, as shown in Table 2(3).

The fact that minority, young, female, and recently registered voters have a higher probability of returning their ballots late is an important finding, highlighting that these particular subgroups may be less informed about the voting process or the operations of the postal service

than others. Young and new voters not only are less likely to be accustomed to the voting process, but they might also face additional informational barriers on how to properly cast a valid ballot. Our findings concerning the differential rejection rates of VBM ballots are important, particularly with regard to the calls for the expansion of voting by mail due to the coronavirus pandemic.

5 Discussion

As election administrators across the country move to adapt in response to the COVID-19 pandemic, voting by mail is likely to increase. As such, it is important to highlight one of the liabilities of the VBM system—rejected ballots. Differing from the extant literature, we offer insights into which subgroups of the electorate are more likely to have their VBM ballot invalidated because their ballot was received either on-time or late by election officials. We find that underrepresented groups including young, female, minority, and newly registrants have a higher rate of rejected VBM ballots—both those received on time and those late—compared to their counterparts. While we did not have a priori expectations that females would be more likely to have their ballots rejected, it is possible this group, because a majority of them change their names after marriage, have ballots rejected due to administrative errors like mismatches between names on ballots and on voter registration files (Gooding and Kreider 2010).

It is important to emphasize that differences in the likelihood of VBM ballots being rejected are not necessarily evidence of explicit voter discrimination against these groups of voters by election officials. Empirically, we are not able to directly observe the determinants of VBM ballot rejections across Georgia's 159 counties to determine the specific reasons why these groups of voters are more likely to have their ballots rejected by local election authorities. While we offer possible theoretical explanations for these rejections, we do not claim to directly test for the causal mechanisms that connect these groups of voter with higher rates of ballot rejection.

Future research should more directly explore possible mechanisms that explain the disproportionate likelihood of rejection of absentee ballots cast by newly registered, as well as female, young and racial and ethnic minority voters. We suggest exploring individual-level reasons as well as administrative decisions made by election administrators, should be a major focus of future work in this area. A central question scholars should address is how plausible it is that

newly registered, female, young, and racial and ethnic minority voters are more likely to make mistakes in the process of returning their absentee ballot envelopes, relative to other groups of voters. To that end, we have offered explanations for why these groups of voters may be more likely to return mail ballots that have problems, but also account for the potential role of election administrators in evaluating those ballots.

When it comes to policy-making, state and local election officials also should play a more formal role in educating voters casting a mail ballot about the proper way to fill out and return a VBM ballot. Voter education efforts by these officials, as well as parties, interest groups, and voting rights groups regarding the mail voting process will be crucial for young, recently registered, and racial and minority voters to have their VBM ballot count in upcoming elections. While those voters who have a higher incidence of their VBM ballot being rejected may arise from a lack experience or familiarity with the mail voting process, local election officials also have a responsibility—statutorily in the state of Georgia—to inform voters about how to minimize mistakes. Moreover, voters who cast mail ballots only to have them rejected for problems with the return envelope should be informed in a timely manner of the problem and be given an opportunity to cure their ballot.

The individual-level and systemic factors we have identified that lead to a VBM ballot being rejected are not necessarily mutually exclusive. It could be that young, female, recent registrants, and racial and ethnic minority voters are more likely to make mistakes based on a lack of information and experience; but it is also possible that election officials are more likely to closely scrutinize these voters' VBM return envelopes relative to other voters. There are certain elements in the VBM ballot verification process that lend themselves to potentially subjective evaluations—for example the signature-matching process—that might be more closely scrutinized to ensure that the patterns of VBM ballot rejection documented in this paper are not the result of implicit "taste-based" or "strategic" discrimination by election officials.

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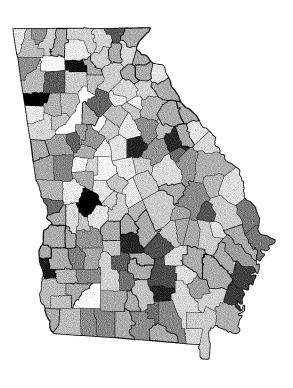
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Figure 1: VBM Rejection Rate by County

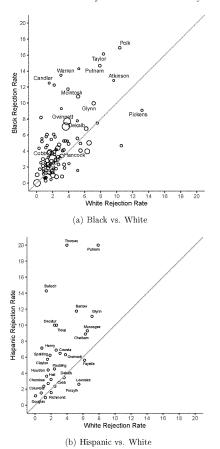


VBM Rejection Rate by County

2.5 5.0 7.5 10.0 12.5

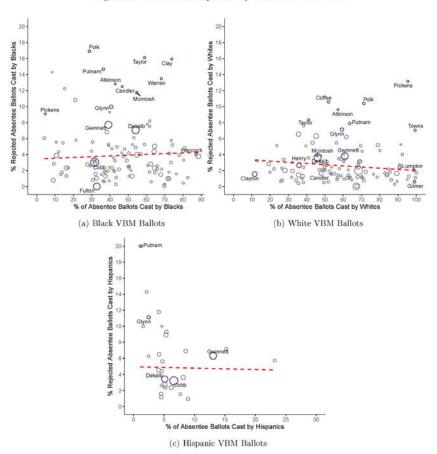
Note: The rejection rate for absentee ballots is calculated as the ratio of the number of absentee ballots rejected over the total number of absentee ballots cast in a county.

Figure 2: VBM Ballot Rejection Rate for Race by County



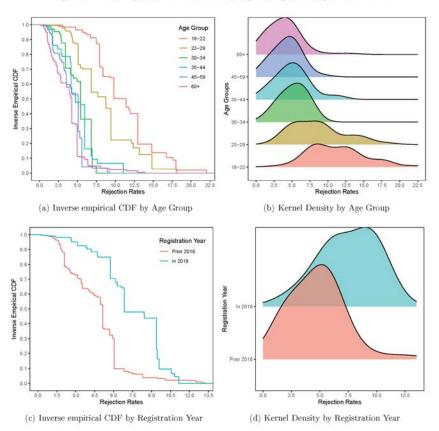
Note: The rejection rate for each race group is calculated as the number of rejected VBM ballots cast by each race group divided by the total number of VBM ballots cast in a county.

Figure 3: VBM Ballot Rejection by Race and Votes Cast



Note: These plots show the relationship between the percent of absentee ballots cast by a race group and the percentage of absentee ballots rejected from that race group. The circle size shows the number of voters in a county. Larger circles indicate more voters in that county. The red dotted line is the fitted linear regression.

Figure 4: VBM Rejection Probabilities by Age Group and Registration Time



Note: Plots (a) and (c) show the inverse empirical cumulative distribution functions of rejection rates, while plots (b) and (d) show their respective kernel density functions. The rejection rates are calculated as the number of rejected VBM ballots cast by each category of the age group (or those registered in 2018) in a county divided by the total number of VBM ballots cast by each category of the age group for those registered in 2018) in that county.

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Table 1: VBM Ballots by Rejection Category

Panel A												
						Age Gr						
	18-22		23-29		30-34		35-44		45-59		60+	
	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent
On-time VBM	223	1.29	189	1.2	109	1.33	232	1.4	654	1.57	1,481	1.21
Late VBM	1,222	6.69	804	4.9	217	2.6	323	1.94	566	1.36	1,004	0.82
All VBM	1,445	7.81	993	5.98	326	3.86	555	3.28	1,220	2.89	2,485	2.01
Panel B												
						Race						
	White		Black		Hispanic		Asian		Other race			
	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent		
On-time VBM	716	0.67	1517	1.82	121	2.05	292	3.53	242	1.38		
Late VBM	1,752	1.62	1,645	1.97	133	2.25	194	2.38	412	2.32		
All VBM	2,468	2.26	3,162	3.72	254	4.21	486	5.75	654	3.63		
Panel C												
	Registration Time					Gender						
	Prior 2018		2018				Female		Male			
	N	Percent	N	Percent			N	Percent	N	Percent		
On-time VBM	2,731	1.31	157	1.11		On-time VBM	1,668	1.25	1,207	1.36		
Late VBM	3,562	1.7	574	3.96		Late VBM	2,502	1.87	1,621	1.81		
All VBM	6,293	2.97	731	4.98		All VBM	4,170	3.08	2,828	3.12		

Note: Descriptives for different types of VBM ballot rejections for each demographic group and voter registration time. The "on-time VBM" includes those rejected VBM ballots that were received after the Election Day. And the last group, "All VBM", includes all rejected VBMs regardless of the time when they were received.

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Table 2: Heckman Sample Selection Model for Rejected VBM Ballots

	(1)	(2)	(3)		
	Received On-Time	Received Late	Both		
	$\beta(se)$	$\beta(se)$	$\beta(se)$		
(Intercept)	-0.187***	-0.390***	-0.525***		
	(0.071)	(0.080)	(0.102)		
Black	0.043***	0.076***	0.109***		
	(0.012)	(0.014)	(0.017)		
Hispanic	0.060**	0.117***	0.163***		
•	(0.020)	(0.022)	(0.028)		
Asian	0.100**	0.188***	0.264***		
	(0.031)	(0.035)	(0.044)		
Race other	0.027***	0.053***	0.074***		
	(0.008)	(0.009)	(0.012)		
Registration year 2018	-0.002	0.008***	0.007***		
	(0.001)	(0.002)	(0.002)		
Age 23-29	-0.038**	-0.101***	-0.128***		
	(0.014)	(0.016)	(0.020)		
Age 30-34	-0.066**	-0.194***	-0.240***		
	(0.025)	(0.028)	(0.036)		
Age 35-44	-0.082**	-0.236***	-0.293***		
_	(0.031)	(0.035)	(0.044)		
Age 45-59	-0.075*	-0.233***	-0.285***		
	(0.030)	(0.033)	(0.042)		
Age 60+	-0.028**	-0.125***	-0.144***		
_	(0.011)	(0.012)	(0.016)		
Female	0.005*	0.015***	0.018***		
	(0.002)	(0.003)	(0.003)		
Gender other	0.037**	0.056***	0.086***		
	(0.013)	(0.013)	(0.017)		
Inverse Mills Ratio (λ)	0.125**	0.298***	0.387***		
	(0.048)	(0.054)	(0.070)		
County fixed-effects	√	✓	√		
Observations	222,284	223,532	226,420		

Note: Table 2 shows output for the Rejection equation (outcome equation) only (VBM equation not shown). The dependent variable for the first model is coded 1 if the VBM ballot was received on-time and was rejected. For the second model, the dependent variable is coded 1 if the VBM ballot was received late and was rejected. In the third model, the dependent variable is coded 1 if the VBM ballot was noted as rejected in the voter file. All models are estimated with county indeed-flets and Huber-White robust standard errors clusted by county. In the VBM qualiton (selection equation), not shown in Table 2, we control for individual level characteristics such as registrant's age, gender, race, and aggregate county characteristics such as education level, per-capita income, and population. ***p* < 0.01, **p* < 0.01, **p* < 0.05